

July 25, 2006/Pg. 1

LICENSING BOARD
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

Tuesday, July 25, 2006

6:00 p.m.

in the

Michael J. Lombardi Municipal Building
Basement, 831 Massachusetts Avenue
Cambridge, Massachusetts 02139

Arlington Reporting Corporation
(781) 646-1730

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P R O C E E D I N G S

(6:15 P.M.)

ELIZABETH LINT: The License Commission general hearing, Tuesday Evening, July 11th at 6:08 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Mass Ave, basement conference room.

Before you are the Commissioners, Chairman Scali. To his right Captain Breen, and to his left Deputy Chief Dan Turner.

Before we get started, if anybody has a cell phone on I'd ask that you please turn it off.

And if anyone is here for the President and Fellows and Fellows of Harvard for a garage and gasoline license at 11 Oxford Street, that has been continued to the September -

CHAIRMAN SCALI: 12th.

ELIZABETH LINT: -- 12th agenda.

CHAIRMAN SCALI: Okay. Just for legal purposes, fire exits here, exit here, and exit in the back. So if there's a need. That door must remain open at all times for fire purposes.

Questions

UNIDENTIFIED VOICE: (Inaudible)

CHAIRMAN SCALI: It's the one that's been
continued from -

ELIZABETH LINT: The one that's -

CHAIRMAN SCALI: -- from January, February. It's
11 Oxford Street.

UNIDENTIFIED VOICE: That's the Lisa -

COMMISSIONER TURNER: Northwest Lab.

ELIZABETH LINT: That's the Lisa building.

COMMISSIONER TURNER: Northwest Lab is different.

UNIDENTIFIED VOICE: Okay.

CHAIRMAN SCALI: Yeah. That one's still on.

All right. The first item -

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ELIZABETH LINT: The first matter, disciplinary hearing, New Mass Restaurants, LLC, d/b/a as The Ground Round, William Edmonds, manager, holder of an all alcoholic beverages as a restaurant license at 555 Concord Ave, for failure to change the restaurant's signage in a timely manner.

CHAIRMAN SCALI: Ground Round.

WILLIAM EDMONDS: Mr. Chairman.

CHAIRMAN SCALI: Hello.

WILLIAM EDMONDS: Good evening.

CHAIRMAN SCALI: Tell us who you are for the record please.

WILLIAM EDMONDS: William Edmonds, manager of record.

MICHAEL YUNG: Michael Yung, Y-u-n-g, managing member of New Mass Restaurants.

CHAIRMAN SCALI: So we hate to drag you in on a sign, but -

WILLIAM EDMONDS: I understand completely.

CHAIRMAN SCALI: -- it's been a long time.

WILLIAM EDMONDS: We appreciate the -

MICHAEL YUNG: Can I present this to you?

CHAIRMAN SCALI: Just pass it around.

Is it - is it going to happen or is it -

MICHAEL YUNG: It's going to happen. The problem I'm having is we - we've been advertising - by Ground Round policy, we need to hire X number of staff. We've been advertising in the paper. We just can't get enough staff in there. And without having enough staff, they refuse to let us change the sign. They even have a legal letter from a law firm telling me I can't do it. So - but right now we're still - I - I - we're still hiring.

Our numbers are coming up. I think with another few more weeks - I already took down the sign in front of the building, the momentous sign, took that one out. I was going to take - take the one on and put The Ground Round sign on and just cover it. They won't even let me do that. They said if I do that I violate all the franchise agreements. That's why, you know, they're threatening me with all kinds of letters, stuff like that, because I just - you know -

CHAIRMAN SCALI: Yeah. I mean I don't want to

get in the middle of your negotiations with the franchise and all that.

MICHAEL YUNG: Right.

CHAIRMAN SCALI: It's just that whatever's on the license has to be on the building --

MICHAEL YUNG: Right.

CHAIRMAN SCALI: -- because people anticipate that that's who you are under the license. So you're saying in the next couple weeks you're going to be -

MICHAEL YUNG: Before the end of August I should have everything changed over and then we should have everything ready to go, ready to go. Because right now we're hiring, and, you know, we are getting some luck on hiring some more people. Because we can't - for whatever reason, we don't get too many people who are local. So everybody's coming from other places. And, you know, the T ends at 12:00 o'clock and they can't get back. So we're having some issue with the hiring.

CHAIRMAN SCALI: I mean if you have to go back to the other name, it's just a matter of filing, if that's what you have to do.

MICHAEL YUNG: Yeah.

CHAIRMAN SCALI: I mean I'm not -

MICHAEL YUNG: Yeah. Right. I mean --

CHAIRMAN SCALI: -- saying you should, but -

MICHAEL YUNG: -- in the next two weeks, if I can't hire up to speed, I'm just going to go back and file and then come back to the name.

CHAIRMAN SCALI: Right. Let's give you another month or so to straighten it out and then we can -

MICHAEL YUNG: Okay. Thank you, Mr. Chairman.

CHAIRMAN SCALI: -- figure out what the story is. But we can't let it go much past that, because it's been, what, almost a year?

WILLIAM EDMONDS: Ten months, yeah.

CHAIRMAN SCALI: It's been almost a year.

MICHAEL YUNG: Okay.

CHAIRMAN SCALI: The license --

WILLIAM EDMONDS: And we are very appreciative of the Commission's patience with us.

CHAIRMAN SCALI: All right. Let's - let's make a motion that we give you another 30 days. Report back to

Mrs. Lint -

MICHAEL YUNG: Thank you.

CHAIRMAN SCALI: -- the status of the days, and
then we'll take it from there.

Motion, moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: All right. Thanks for coming
in.

WILLIAM EDMONDS: Thank you very much.

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CHAIRMAN SCALI: Deputy Chief.

COMMISSIONER TURNER: Just to point out, clarification. The Oxford Street -- 52 Oxford Street, Harvard College, is tonight's agenda?

ELIZABETH LINT: That's on.

CHAIRMAN SCALI: That's on.

COMMISSIONER TURNER: This is on. Okay. And 11 Oxford -

ELIZABETH LINT: Is off.

COMMISSIONER TURNER: Okay. That wasn't on the agenda. So -

ELIZABETH LINT: It was an addendum.

CHAIRMAN SCALI: It was an addendum.

COMMISSIONER TURNER: Oh, it was a -

CHAIRMAN SCALI: Yeah.

COMMISSIONER TURNER: All right. That's fine.
Thank you.

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ELIZABETH LINT: Review, continued from June 20th, 2006, Casa Do Benefica Da Nova Inglaterra, Incorporated, David Brandao, manager, holder of an all alcoholic beverages as a club license at 178 Elm Street, for a six month review of the disciplinary decision of December 5th, 2005.

CHAIRMAN SCALI: Casa Do Benefica. Good evening.

ATTORNEY FRANK OLIVIERI: How are you?

CHAIRMAN SCALI: Good evening. How are you?
Tell us who you are again for the record please.

ATTORNEY FRANK OLIVIERI: Attorney Frank
Olivieri, representing Casa Do Benefica.

THE STENOGRAPHER: Could you spell your last name
please?

ATTORNEY FRANK OLIVIERI: O-l-i-v-i-e-r-i.

CHAIRMAN SCALI: And you are, sir?

LOUIS MOTA: Louis Mota, treasurer for Benefica.

THE STENOGRAPHER: I'm sorry. What did you say?

LOUIS MOTA: Louis Mota, M-o-t-a.

THE STENOGRAPHER: Louis?

LOUIS MOTA: Yes.

THE STENOGRAPHER: And?

LOUIS MOTA: M-o-t-a, M-o-t-a.

THE STENOGRAPHER: Thank you.

ATTORNEY FRANK OLIVIERI: Good evening.

CHAIRMAN SCALI: Good evening. When last we were here we continued it for a couple of reasons.

ATTORNEY FRANK OLIVIERI: Four reasons actually.

CHAIRMAN SCALI: Yeah. The first one was to give us a status report on that case that was in court.

ATTORNEY FRANK OLIVIERI: That's correct. You may remember that our original appearance before the Board, Mr. Chairman, was because of the arrest of Antonio Perez, who has a case pending in the Cambridge District Court, Docket No. 06127. I traveled to the court this afternoon and they told me that a motion to suppress the evidence of the arrest has been scheduled for August the 11th at 2:00 o'clock.

And I made a couple of telephone calls to George Murphy, who represents the defendant, and unfortunately hasn't returned the calls. He's a court appointed attorney.

I don't know what's going to happen. I don't know anything about the case. I assume that if the evidence is suppressed, the case may eventually be dismissed. And if not, then it would go from there to trial.

CHAIRMAN SCALI: And this gentleman was a club member, correct?

ATTORNEY FRANK OLIVIERI: No. He was not a club member. No, not at all. Neither - neither he nor the other person who was arrested, a Manuel Mello, were club members.

It was alleged that Mr. Perez was in the club, and it's my understanding that the charge of distribution of cocaine occurred outside the club. And I think that was our original discussion when we came here.

So that case is apparently still unresolved.

CHAIRMAN SCALI: All right. Well let's put that aside for now then and go onto the other item, which is the - let's see - addressing the fire code violations.

ATTORNEY FRANK OLIVIERI: My understanding from talking to the management this morning was that the Fire

Department has been down there and that the code violations have been corrected. That's what he tells me.

COMMISSIONER TURNER: We'll have to revisit.

CHAIRMAN SCALI: Revisit?

COMMISSIONER TURNER: Do another visit.

ATTORNEY FRANK OLIVIERI: He tells me that someone was down there last week from the Fire Department and gave him the signoff on it. So -

CHAIRMAN SCALI: We'll check on that matter then and find out if it's true.

Attending the CLAB training? I hear from Mr. Connelly that you scheduled it, or have you been to it, or -

ATTORNEY FRANK OLIVIERI: My understanding is it was - it was conducted last week.

ELIZABETH LINT: Yes. I have a letter from Mr. Connelly.

CHAIRMAN SCALI: All right. And then Miss McCarda's complaint. Was there any further necessity on that?

ATTORNEY FRANK OLIVIERI: (Shakes head)

CHAIRMAN SCALI: All right. All right.

Commissioners, any other questions?

COMMISSIONER TURNER: I have no further questions.

CHAIRMAN SCALI: All right. I'll make a motion to take the matter under advisement. We'll vote on it Thursday morning at 10:00 a.m. Actually it was a review of the disciplinary matter, whether we should - we should go any further. Was it to impose the suspension?

ELIZABETH LINT: Yes.

CHAIRMAN SCALI: Is there anything else you want us to know before we -

ATTORNEY FRANK OLIVIERI: Well I talked to the management this morning and he tells me that -- as you may remember, the Commission, provided me with a copy of Ms. McCarda's three page complaint. And I met with the - about two days later I met with the officers and gave them a copy of that letter.

They also had a rental of their hall on June 17th, 2006. And at that time they paid the Cambridge Police Department \$140 for a detail. Unfortunately, they were

informed that the Police Department was understaffed that day and they could not send anybody for the detail.

Based on that, when the membership had their July meeting, it is my understanding from the manager, David Brandao, that there was a lot of members that were concerned that this was causing a problem in the club. David tells me that the membership voted to terminate all hall rentals.

You may remember that back last summer we said that the hall rentals would only be allowed if it was - if it was sponsored by a member of the club. They have decided that they have terminated - to terminate all hall rentals, whether - whether -

CHAIRMAN SCALI: So you're not having any events at all?

ATTORNEY FRANK OLIVIERI: No, none.

CHAIRMAN SCALI: There's no -

ATTORNEY FRANK OLIVIERI: No.

And I - I told them that I thought this was a good idea. I said, you know, you have this - this fresh complaint from a - from a neighbor. They weren't able to

get a detail cop because of the understaffing. To make this whole issue calm down, it is a good - it is a good idea. And a lot of them just wanted to do it. They were afraid for their license.

CHAIRMAN SCALI: The idea wasn't for them to lose business in terms of their - a lot of the clubs I know need the income from the - from the functions that they may have. But of course they have to be a member or sponsored by a member. So -

COMMISSIONER BREEN: I think if I can recall, Mr. Chair, that the big problem I saw at that time was that the members or guests of the members that have functions. And I don't think they had any control points. And it was like an open club. And that's why all the fights started and so forth.

So I concur with the Chairman. I don't see how - I wouldn't want to see them eliminating everything and go broke. On the other hand, if they limited it to members and guests of the members, and complied with the rules and regulations, that would be better.

But that's your - your discretion.

CHAIRMAN SCALI: Yeah. We can - we can revisit that in six months or so and see what - how you're doing at that point as well. So - all right.

Well let's get the update from the - from the Fire Department for Thursday morning, and we'll take everything else under advisement at this time.

So motion to take the matter under advisement, moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: Thank you very much for the update.

ATTORNEY FRANK OLIVIERI: That will be this Thursday?

CHAIRMAN SCALI: This Thursday at 10:00 a.m. right here in this room. You're welcome to be here if you want. You're not - you don't have to be here, but you're welcome to be.

ATTORNEY FRANK OLIVIERI: Thank you very much, Mr. Chairman, Commissioners.

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CHAIRMAN SCALI: All righty.

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ELIZABETH LINT: Application, continued from June 20th, 2006, reconsideration/six-month review, Chazumba, LLC d/b/a Felipe's Taqueria, Felipe Herrera, manager, holder of a common victualer and entertainment license, audio tape machine/CD, only playing background music below ordinary conversation level, at 83-85 Mt. Auburn Street, for increase in hours, Sunday, 7:00 a.m. to 1:00 a.m., Monday, Tuesday, and Wednesday 7:00 a.m. to 2:00 a.m., Thursday, Friday, Saturday 7:00 a.m. to 4:00 a.m. Also review of disciplinary hearing of November 29th, 2005.

ATTORNEY ANTHONY LECCESE: Good evening --

CHAIRMAN SCALI: Good evening.

ATTORNEY ANTHONY LECCESE: -- Mr. Chairman, Commissioners.

CHAIRMAN SCALI: Just tell us who you are for the record please.

ATTORNEY ANTHONY LECCESE: I'm Tony Leccese with the law firm of Rudolph Friedmann, Boston, Massachusetts.

And with me is one of the owners of Chazumba, LLA d/b/a Felipe's, Thomas Brush.

And along with -

THE STENOGRAPHER: Thomas?

THOMAS BRUSH: Brush.

ATTORNEY ANTHONY LECCESE: Brush.

THE STENOGRAPHER: Spell it please.

THOMAS BRUSH: B-r-u-s-h.

THE STENOGRAPHER: Thank you.

ATTORNEY ANTHONY LECCESE: And also one of my partners, Robert Shea, who has been the point person on addressing issues with the landlord's attorney.

As you may recall, at our - at the hearing on the 20th, the landlord had submitted a letter that there were issues that he felt needed resolution. And despite our efforts to attempt to resolve those prior to the June 30 - June 20 meeting, we have continued to attempt to resolve those. And Bob is here to - to provide you with the details on that.

CHAIRMAN SCALI: Okay. That's probably the only issue that we really had. I mean there's - you have support and you have shown that there's somewhat of a need for this particular -

THOMAS BRUSH: Got thousands of signatures and

everything.

CHAIRMAN SCALI: Yeah. I think -- let me make it clear. Our policy here is that if the landlord isn't going to allow it, we certainly aren't going to approve something that's going to conflict with the lease or the landlord's needs in that particular building. So that's why we've given you an opportunity to try and resolve it with the landlord so that you can come to some resolution. So maybe you can give us an update.

ATTORNEY ROBERT SHEA: Well - I'm Bob Shea.

I've got actually a few things. I've got a list of the outstanding issues and I want to give this to the Board.

CHAIRMAN SCALI: Pass it around this way to Mrs. Lint, that would be great.

ATTORNEY ROBERT SHEA: Okay.

And basically these issues have nothing to do with - with the - with the extension of hours. We have not - the answer to your question, we haven't resolved all the issues with the landlord. They have nothing to do with the extension of hours.

Trinity Realty has asked - has demanded we pay a sum that would - that would compensate Trinity for increased costs. And we said, okay. And I said, so, okay, just document the costs and we'll pay the sum. And what I got back was a response saying, it's not our obligation to document the costs, and we're not going to tell you what the sum is until later. Now I can't agree to pay a sum if I don't know what it is and if there's no documentation.

We - we said there wouldn't be any increase in cost, because as far as trash, trash is included in the common area maintenance fee, and security, there's a security guard there all night anyway. There's - there's really no -

COMMISSIONER BREEN: Let me - let me stop you for a minute, with your permission, Mr. Chairman.

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: To my recollection your client has a lease with the owner of the building, correct?

ATTORNEY ROBERT SHEA: That's correct.

COMMISSIONER BREEN: And the lease is still in effect to - to what date?

THOMAS BRUSH: It's a - it's a five year lease with a five year option.

COMMISSIONER BREEN: So how many more years have you got on the lease?

THOMAS BRUSH: Seven. A little over seven and a half years.

COMMISSIONER BREEN: Okay. Now you want to extend the hours to certain times. And is it my understanding that the owner of the building that you want to extend the hours wants you to pay more for certain fees that are unknown to you for those hours, if we were to vote in favor? Do you follow my rationale?

ATTORNEY ROBERT SHEA: Right. I think -- I think you're right, Captain.

COMMISSIONER BREEN: Am I following? It's been so long on this.

ATTORNEY ROBERT SHEA: That is correct. There is a - there is a claim that the extended hours would create additional costs that the landlord would have to incur. And we're not - we're disputing whether there would be any additional charges for trash or security. But be that as

it may, we've asked for some evidence on what these charges are, what the scope of those charges would be so that we can determine whether it's worth it for us to pay those, versus extending the hours.

I mean that would be at our option. If we had the right to extend hours, and the landlord said, you have to pay these additional costs, we - we might say, well those are too much and we'd not extend.

CHAIRMAN SCALI: We don't want to be in the business of negotiating on leases. That's not what we're here to do. Is there a time limit - is there a closing hour on your lease now that says your hours are?

THOMAS BRUSH: I provided a copy of the lease to the Board so that you could review it. There is no - there is nothing in the lease limiting our hours. There are minimum hours that we have to be open, but there's nothing in there listing maximum hours.

CHAIRMAN SCALI: Well I assume the landlord is going to disagree with that.

THOMAS BRUSH: I mean it's in the lease. We have not -

CHAIRMAN SCALI: Yeah.

THOMAS BRUSH: We've all - I mean that has never really been an issue brought up by the landlord's attorney or these attorneys that there's anything in the lease preventing us from staying open. And that was my contention. I mean we were under the impression - and also during my negotiations with the landlord, he had encouraged me to apply for and get later hours. He wants the building -- he wants more activity going on.

ATTORNEY ROBERT SHEA: Right.

THOMAS BRUSH: So he had encouraged me all along.

COMMISSIONER BREEN: Well has he - has -- the owner or the landlord hasn't been specific to these unknown monies that he wants for either security or trash? He hasn't designated what - what is -

ATTORNEY ROBERT SHEA: Right. And he said he won't. He said he won't. His exact - one of his exact words are, it's not our obligation to substantiate these charges. Now there's no obligation under the lease even to pay, if we did get this, but we would pay if we - if we -

CHAIRMAN SCALI: Right. Well the landlord's

here. So I guess he's going - we'll call him up and see what his issues are.

Mr. DiGiovanni, do you want to - do you want to speak on this matter, because we really - we really don't want to be in the middle of negotiating on a lease. It's just a matter of us deciding whether there's a need for this particular extension of hours. And then whether there's any harm to the neighborhood or to the - to the pedestrian or traffic issues in the area. So -

THE STENOGRAPHER: Could I have your name please?

JOHN DIGIOVANNI: Sure. John DiGiovanni, Trinity Properties.

THE STENOGRAPHER: I'm sorry. John Di -

JOHN DIGIOVANNI: DiGiovanni, D-i-G-i-o-v-a-n-n-i.

THE STENOGRAPHER: And what Properties?

JOHN DIGIOVANNI: Trinity Properties.

THE STENOGRAPHER: Thank you. Can you come just a little closer?

JOHN DIGIOVANNI: Sure.

THE STENOGRAPHER: The microphone's over there.

JOHN DIGIOVANNI: Good evening, and thank you for letting me speak here.

And I appreciate the Commissioner's point about a general policy that they should -- anyone extending their hours to this late time. And quite frankly, we have indicated in our previous letters that we would like to support this kind of operation.

We actually worked quite hard in the past decade to improve the conditions of the Square and the operation of the commerce in Harvard Square.

Counsel to my right has been taking pieces of conversations that were said. And we said, at this stage we will not discuss what we believe are legitimate issues if you had outstanding -- if you are extending your hours. But there are outstanding issues that have been that case for the past year plus in our building, which we can't get done, which we have been working toward getting done.

And our concern -- and this Commission has had to discipline this operator because they didn't obey -- follow their rules of staying open till 2:00 a.m. in the first place. We have similar issues in the building where they

have done work where they needed a building permit and they didn't - they did not obtain a building permit. We have issues of them doing work in other parts of the building not consistent with our - with our rules and regulations in the building.

And I don't want to go through all of this. These are issues. And you say you have a lease, you have to conform. The only way you do that is going through a long process. These guys get a lot of money, and it takes a long time on what -- each one of them is not a catastrophic issue, but when you start adding up all the issues there's a lot of issues outstanding. And we said, we will not discuss extra hours, we will not discuss the cost of those until you resolve these other issues.

I will tell you we've had grease, just as one example. And this is one that's finally now the one thing that's been resolved between the last hearing you had and now. Is they finally agreed that they'll deal with the grease that's being spit onto the roof from their operation. That's the one item in 30 days. It took a number of conversations between lawyers. We showed photos

of this, brought them up there. We've been wanting this done.

And the reason we're doing this, the reason someone's asking for additional hours is because they're extraordinarily busy. And we like that. And we're convinced if you're open more hours, you're going to have a lot more folks there and a lot more activity. And we want it done in a safe way. We want it done in a professional way. And we absolutely want to have a cooperative relationship before we support anything else on any additional hours.

I appreciate your time.

CHAIRMAN SCALI: The public?

ELIZABETH LINT: I spoke with Ms. Nathans this morning and the Harvard Square Defense Fund opposes the 4:00 a.m. close. I believe she discussed a compromise of hours.

CHAIRMAN SCALI: Um hum.

COMMISSIONER BREEN: Well I'm - with your permission, Mr. Chair and Counsel.

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: If you can refresh my - my senior citizen memory. But I'm not aware of any license that's a 4:00 a.m. in Cambridge.

CHAIRMAN SCALI: Well HiFi Pizza used to be until 4:00 a.m. Now they - they - they're 3:00 a.m. And then there's also Pinocchio's, Pinocchio's Pizza.

COMMISSIONER BREEN: Pizza.

CHAIRMAN SCALI: Also has a 4:00 a.m.

I - I honestly think - it's always been our policy that if the landlord does not agree with these particular - the operation that's running and the hours and the conditions, it has always been our policy to either continue or put on hold or wait until these matters are resolved. I - we don't want to be in the business of negotiating and leases and conditions and problems. It sounds like there are other issues that are not - that are not money related, that are - that are conditions that are in the building, that are safety issues, according to what he's saying.

So I - honestly my motion is going to be to continue it indefinitely until you can resolve the matter

or take it off the agenda.

THOMAS BRUSH: What I would like to say is we have a lease. There are rules and regulations throughout the city in terms of building permits, building codes, everything. We have conformed in every way, shape, and form. If there was anything that we have not conformed on, then why hasn't - there's been a - there would be a default on our lease, or someone from City Hall coming in and saying, hey, where's your building permit? I've spoken to everything there. Everything we have done has been done to a tee and done to a code. And as far as I'm concerned, it's - all the points he's brought up are - are - have nothing to do with this issue. This is merely - and it is my - in my opinion it's just pure harassment.

JOHN DIGIOVANNI: This is why it won't get resolved.

THOMAS BRUSH: And - and - and -

JOHN DIGIOVANNI: (Inaudible)

CHAIRMAN SCALI: I would think if I was a tenant that I would want to make the landlord as happy as I could, resolve the - resolve whatever matters are going on in the

building at the time, and then get into the fact that you want to, you know, negotiate the lease.

THOMAS BRUSH: I have been a perfect tenant for - everything to a tee. My buildouts are absolutely top quality, everything. This is nothing more than -

CHAIRMAN SCALI: Again, we don't -- we're not - we're not in the business of negotiating our leases.

THOMAS BRUSH: I know, but it's just unbelievable.

CHAIRMAN SCALI: At this point in time I - I - you know my motion is going to be to -

COMMISSIONER BREEN: Mr. Chair, I'm going to make a motion that we put this over until Thursday and -

CHAIRMAN SCALI: All right.

COMMISSIONER BREEN: -- we vote on it.

CHAIRMAN SCALI: Motion to take the matter under advisement.

Moved, seconded.

All in favor?

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: All right. We'll vote on

Thursday morning.

THOMAS BRUSH: Thank you, Mr. Chair.

ATTORNEY ANTHONY LECCESE: Thank you very much.

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ELIZABETH LINT: Olive Café, Incorporated d/b/a Olive Café, Kemal Arda, manager, for a common victualer license at 43 Gore Street from 7:00 a.m. to 11:00 p.m. seven days per week to have a total occupancy of 24 persons.

CHAIRMAN SCALI: Good evening

KEMAL ARDA: Hi.

ATTORNEY BRENDAN CLANCY: Good afternoon. Good evening --

CHAIRMAN SCALI: Have a seat.

ATTORNEY BRENDAN CLANCY: -- Mr. Chairman and Board members.

CHAIRMAN SCALI: Tell us your name for the record please.

ATTORNEY BRENDAN CLANCY: My name is Brendan Clancy. I'm counsel for Kemal Arda, owner -

THE STENOGRAPHER: Please spell both names.

ATTORNEY BRENDAN CLANCY: Brendan Clancy, B-r-e-n-d-a-n C-l-a-n-c-y.

CHAIRMAN SCALI: And you are -

KEMAL ARDA: Kemal Arda.

THE STENOGRAPHER: Okay.

CHAIRMAN SCALI: This is Maria's Sub Shop?

ATTORNEY BRENDAN CLANCY: It is Maria's Sub Shop.

CHAIRMAN SCALI: You're a new owner then?

ATTORNEY BRENDAN CLANCY: The sales continued on
a license.

CHAIRMAN SCALI: Say that again.

ATTORNEY BRENDAN CLANCY: The sales continued on
approval from the Board for a license.

CHAIRMAN SCALI: I see. So Maria is leaving and

-

ATTORNEY BRENDAN CLANCY: Yes.

CHAIRMAN SCALI: -- if you get this license, you
will then be in there?

ATTORNEY BRENDAN CLANCY: Yes.

CHAIRMAN SCALI: All right. So first let's start
with, is he the sole owner, Mr. Arda?

ATTORNEY BRENDAN CLANCY: Yes.

CHAIRMAN SCALI: Okay. Just - why don't you
start with his experience in the restaurant business and
then tell us what the concept is and the menu.

KEMAL ARDA: Well we already have an existing restaurant in Boston.

THE STENOGRAPHER: I'm sorry, sir?

KEMAL ARDA: I have - I already have a restaurant in Boston, which is in Massachusetts Avenue, 502 Mass Ave.

CHAIRMAN SCALI: What's it called?

KEMAL ARDA: Corner Café.

CHAIRMAN SCALI: Corner Café?

KEMAL ARDA: Yeah.

CHAIRMAN SCALI: Okay.

KEMAL ARDA: I also had a business before, Alexander Pizza, which I sold in '97. I had it. I sold it in -

CHAIRMAN SCALI: That was in Boston, too?

KEMAL ARDA: It was in Brighton.

CHAIRMAN SCALI: In Brighton. Okay.

KEMAL ARDA: So I've been working at restaurants most of my life.

CHAIRMAN SCALI: All right. y. What's your menu going to be like? Do you have a copy of your menu?

KEMAL ARDA: I should have a menu.

CHAIRMAN SCALI: Are you changing the whole concept? Is everything changing there? Are you renovating and -

ATTORNEY BRENDAN CLANCY: He's just - he's just going to do a little work in the kitchen, because I think it's - there's some code issues with the sinks and stuff that he needs to upgrade.

CHAIRMAN SCALI: All right.

ATTORNEY BRENDAN CLANCY: And then - but it will basically be the same exact setup.

CHAIRMAN SCALI: Same setup?

ATTORNEY BRENDAN CLANCY: Yes.

CHAIRMAN SCALI: Same hours?

ATTORNEY BRENDAN CLANCY: The hours are I believe different. I believe that Maria's closes right now around 4:00 or 5:00 in the afternoon.

CHAIRMAN SCALI: Okay. So you want to be open until 11:00 p.m.?

ATTORNEY BRENDAN CLANCY: 11:00 p.m.

COMMISSIONER BREEN: So what, Monday through Saturday, or seven days a week, or what?

ATTORNEY BRENDAN CLANCY: 7:00 to 11:00. 7:00
a.m. to 11:00 p.m.

COMMISSIONER BREEN: So at night?

ATTORNEY BRENDAN CLANCY: Yes. And it's going to
be -

COMMISSIONER BREEN: Are you open - when are you
open now?

CHAIRMAN SCALI: He's not there now.

KEMAL ARDA: Right now only -

COMMISSIONER BREEN: Who's there now?

CHAIRMAN SCALI: Maria's Sub.

ATTORNEY BRENDAN CLANCY: Maria's Sub. This will
be the same -

KEMAL ARDA: Same menu.

ATTORNEY BRENDAN CLANCY: -- same menu.

CHAIRMAN SCALI: Are you going to be serving
breakfast?

ATTORNEY BRENDAN CLANCY: Yeah. It's on the back
page.

COMMISSIONER BREEN: And what's her hours, do you
know?

ATTORNEY BRENDAN CLANCY: I believe that the landlord told me she's somewhere around 7:00 or 8:00 in the morning until 4:00 or 5:00 in the afternoon, she closes.

CHAIRMAN SCALI: And Mrs. Lint can look that up, I'm sure.

ATTORNEY BRENDAN CLANCY: I don't know what her license hours are.

ELIZABETH LINT: 9:00 a.m. to 5:00 p.m. six days per week.

CHAIRMAN SCALI: And the reason for being open later is that you want to, what, serve a dinner or -

KEMAL ARDA: I do want to serve dinner.

ATTORNEY BRENDAN CLANCY: I think he's hoping with the - the complexes going in, the condos by the courthouse just down there, that at night he may get more business from tenants who come in from those new complexes over in that area.

CHAIRMAN SCALI: All right. Questions?

(No response)

CHAIRMAN SCALI: Anybody want to be heard on this matter? Comments? Come forward.

DENNIS FERRICK: My name is Dennis Ferrick. I live at 25 Gore Street.

THE STENOGRAPHER: What is it again?

DENNIS FERRICK: Ferrick, F-e-r-r-i-c-k.

THE STENOGRAPHER: Dennis?

DENNIS FERRICK: Yes.

THE STENOGRAPHER: Thank you.

DENNIS FERRICK: I live on - I've lived on that street for about 10 years or so. And parking is very very difficult in that area.

CHAIRMAN SCALI: Um hum.

DENNIS FERRICK: And I'm wondering where these cars are going to be parked. To tell you right now, the only reprieve that we have for parking is weekends where you can park in front of your own house. The whole right-hand side from Gore Street all the way down to Second Street is non-resident parking. And I live on the lefthand side, which would be Maria's Sub Shop side, and that's resident parking. And cars park on the right-hand side and go into town or whatever.

And the only time you could actually find a spot

is the weekends. But if there's a Red Sox game or something like that it's - they have a parking lot across from Maria's, but the bank has not authorized any parking in there for quite a few years due to incidents happening in there with - the bank was, you know, supposed to be responsible for break-ins. So they tow out of that lot. So I don't understand where all the parking would go if there's - you know?

CHAIRMAN SCALI: So you're feeling that being open past 5:00 p.m. is going to cause all evening parking -

-

DENNIS FERRICK: Right.

CHAIRMAN SCALI: -- in the residential spaces?

DENNIS FERRICK: Yeah. I mean it's quite a problem now, sometimes even with Maria's with double parking. But they're - you know what I mean? You also have the fire station on that corner, and cars coming around the - you know what I mean? The fire trucks coming in. So that's my main concern.

CHAIRMAN SCALI: All right. Questions?

(No response)

COMMISSIONER BREEN: Does your client feel he'll get a different clientele or same clientele that's frequenting the establishment at the present time?

ATTORNEY BRENDAN CLANCY: I think he thinks he'll get the same clientele, except that law clientele now that's coming from the courthouse during the day - he's not aware - I mean we've had a number of discussions with the landlord about the area and how busy it is or not busy it is at nighttime, and how it calms down at nighttime. In our lease we're talking about how to address if like for instance he's open until 11:00 and it - there's no one there, that we'll just reduce the hours, you know.

CHAIRMAN SCALI: Is it your hope that people in the neighborhood -

ATTORNEY BRENDAN CLANCY: Yes.

CHAIRMAN SCALI: -- and people in the condominiums are going to walk -

ATTORNEY BRENDAN CLANCY: Yeah.

CHAIRMAN SCALI: -- to the -

ATTORNEY BRENDAN CLANCY: I mean there's a number of complexes right around that are being - one on the back

side of it and a couple by the courthouse on the right closer to town that are being constructed that he's hoping to get business from at nighttime.

CHAIRMAN SCALI: What other restaurants are around you?

KEMAL ARDA: There are some in Cambridge Street actually.

ATTORNEY BRENDAN CLANCY: There's - there's a Dunkin Donuts right across almost.

CHAIRMAN SCALI: Yeah.

ATTORNEY BRENDAN CLANCY: Right there.

CHAIRMAN SCALI: Third Street?

ATTORNEY BRENDAN CLANCY: Yeah.

CHAIRMAN SCALI: So you're - you're behind the Dunkin Donuts on the other side?

ATTORNEY BRENDAN CLANCY: If you come from the courthouse --

CHAIRMAN SCALI: Yeah.

ATTORNEY BRENDAN CLANCY: -- he's on - Maria's is on the right and Dunkin Donuts is down on the left.

COMMISSIONER BREEN: He's right across from the

parking lot behind the bank.

CHAIRMAN SCALI: Yeah. Down by the carpet place there.

ATTORNEY BRENDAN CLANCY: Right. Yeah. The carpet place I think is back by the -

CHAIRMAN SCALI: People really can't park - you can't park on Third Street. You have to park on Gore Street then, right, if you're going to - if you're going to - if you're going to pull in or park there?

ATTORNEY BRENDAN CLANCY: Yes.

KEMAL ARDA: On Gore Street. Yeah.

CHAIRMAN SCALI: Anybody else want to be heard on this matter?

(No response)

CHAIRMAN SCALI: I know we had a couple of letters, too.

ELIZABETH LINT: We have three letters in opposition to the extra hours.

CHAIRMAN SCALI: Did you give copies to Attorney Clancy on those?

ELIZABETH LINT: No.

CHAIRMAN SCALI: A letter from Elaine Santos, 18 Gore Street, opposed to the extended hours because of parking issues.

A letter from Audrey Cunningham and Dot Katrano, 49 Gore Street, opposing it because of the parking issue as well.

Rose Ann Pourier, 18 Gore Street, opposed because of traffic and parking issues.

All right. Is there any way maybe you might consider being - closing a little earlier at this point in time and see how things go, and then come back to us at another time? Because then - we encourage you to see how your business goes, and begin, and then come back. And talk with the neighbors about these issues and see what kind of business you do get. Sometimes it helps to start that way.

KEMAL ARDA: Only like 10:00 o'clock maybe.

CHAIRMAN SCALI: Well I was thinking a little earlier than that, but -

ATTORNEY BRENDAN CLANCY: A little bit closer to the 5:00 p.m.?

KEMAL ARDA: But 5:00 p.m. is - it's too early really. You know this -

CHAIRMAN SCALI: You're really looking for a dinner crowd?

KEMAL ARDA: Yeah.

COMMISSIONER TURNER: Mr. Chair?

CHAIRMAN SCALI: Deputy Chief.

COMMISSIONER TURNER: Through you to the applicant. Would this be the evening menu pretty much as well? Would this be the -

KEMAL ARDA: Yeah, it is.

COMMISSIONER TURNER: All the way? Thank you.

ATTORNEY BRENDAN CLANCY: I think what we're trying to do with the evening, the landlord has had some concerns about the - just the hours again of the area. He doesn't think it's - business will support it until those other structures are in.

CHAIRMAN SCALI: Right.

ATTORNEY BRENDAN CLANCY: We've been trying to - we're really addressing that with like the lease, which isn't completed as yet.

CHAIRMAN SCALI: Do you want to maybe think about this over the next - before we vote on Thursday morning, and talk with your client about what -

ATTORNEY BRENDAN CLANCY: Sure.

CHAIRMAN SCALI: -- what you can kind of live with now until those structures are completed? And then maybe you can have some discussion with the neighbors about how that might be resolved.

ATTORNEY BRENDAN CLANCY: Sure.

CHAIRMAN SCALI: Once you need to do that?

ATTORNEY BRENDAN CLANCY: Absolutely.

KEMAL ARDA: Also, like, you know, most of the customers - right now I just - I work over there. I start to - over there. Most of the customers, they're coming in, so they park in Citizens Bank in the parking lot. It takes like a few minutes to go pick up. I mean they don't park in the city.

CHAIRMAN SCALI: Yeah. I'm not sure if you're allowed to even park in that lot at night, whether the bank will let you do that. You know they probably don't want you parking there, I'm sure, but -

Let's take this matter under advisement. And you can get back to Mrs. Lint as to your decision.

ATTORNEY BRENDAN CLANCY: Sure.

CHAIRMAN SCALI: And then we'll vote Thursday morning, okay?

ATTORNEY BRENDAN CLANCY: Okay. Thank you.

CHAIRMAN SCALI: All right?

Motion to take the matter under advisement.
Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: All right. Thank you very much.

ATTORNEY BRENDAN CLANCY: Thank you.

KEMAL ARDA: Thank you.

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CHAIRMAN SCALI: Top of page two.

ELIZABETH LINT: Application, James and Carol, Incorporated d/b/a Thai Kitchen, Chih-Cheng Lin, manager, holder of a common victualer license and entertainment license, background music only, at 2260 Mass Ave, for a change of d/b/a to Thai and Mandarin Kitchen.

CHIH-CHENG LIN: (Stenographer's note: Mr. Ling has a heavy accent.)

My name is Chih-Cheng Lin, C-h-i-h C-h-e-n-g, last name L-i-n.

And I elect to change my name from Thai Kitchen to Thai Mandarin Kitchen.

CHAIRMAN SCALI: And now it's Thai and Mandarin, not just Thai?

CHIH-CHENG LIN: No, no. Now it's Thai Kitchen.

CHAIRMAN SCALI: But you're going to be serving Thai and Mandarin food, is that what -

CHIH-CHENG LIN: Yeah. Thai and Chinese food.

CHAIRMAN SCALI: Are you changing your menu?

CHIH-CHENG LIN: Yeah. We almost done.

CHAIRMAN SCALI: You will - so you will be

changing your menu?

CHIH-CHENG LIN: Yeah, we are changing the menu.

Not really changing the menu. We -

CHAIRMAN SCALI: Adding items?

CHIH-CHENG LIN: Add items, you know, Chinese food.

CHAIRMAN SCALI: All right. Once you - once you do that can you - you should give us a copy of that menu so we have it -

CHIH-CHENG LIN: Oh, sure. Sure.

CHAIRMAN SCALI: -- in our files.

CHIH-CHENG LIN: Okay. When I'm done I give it to you, a copy of the menu.

CHAIRMAN SCALI: All right. Anybody from the public want to be heard on this matter?

(No response)

CHAIRMAN SCALI: No hands.

Questions?

(No response)

CHAIRMAN SCALI: The Assessor's Department always gives us unpaid bills for the city. They know they can

catch you here at one of our hearings. So we hand you a copy of the bills. So it's probably a small personal property tax bill.

CHIH-CHENG LIN: Oh. You mean the bill?

CHAIRMAN SCALI: So make sure you pay that and bring the receipt over to Mrs. Lint.

CHIH-CHENG LIN: Um hum.

CHAIRMAN SCALI: All right?

CHIH-CHENG LIN: I didn't receive that. I don't know why.

CHAIRMAN SCALI: Well -

CHIH-CHENG LIN: All right. Never mind.

CHAIRMAN SCALI: -- it's probably in some file somewhere.

CHIH-CHENG LIN: Yeah.

CHAIRMAN SCALI: Motion, Commissioners, to approve subject to the payment of that bill. Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: All right. Thank you very much.
Good luck.

CHIH-CHENG LIN: Thank you.

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ELIZABETH LINT: Application, President and Fellows of Harvard College, for a garage and gasoline license at 52 Oxford Street, to include 3,200 gallons of class II to be stored in tanks aboveground.

CHAIRMAN SCALI: Good evening.

CHARLES STUDEN: Good evening.

CHAIRMAN SCALI: Tell us who you are for the record.

CHARLES STUDEN: Charles Studen with Harvard University Planning Office.

THE STENOGRAPHER: S-t-u-d-e-n?

CHARLES STUDEN: That's right.

THE STENOGRAPHER: Thank you.

DANIEL CARON: Daniel Caron, C-a-r-o-n, with BR Consulting Engineers.

CHAIRMAN SCALI: All right. . This is a different project than 11? It's 52.

CHARLES STUDEN: Indeed. This is for -

CHAIRMAN SCALI: Thankfully, I guess in some ways.

CHARLES STUDEN: Yes. Yes. This is for the

northwest building that's currently under construction.

CHAIRMAN SCALI: Okay.

CHARLES STUDEN: And it's an emergency - for an emergency generator that would be located in the 52 Oxford Street garage that was completed a year or so ago.

CHAIRMAN SCALI: And the generator is for emergency power should you lose power in the building?

CHARLES STUDEN: That's correct. Yes.

COMMISSIONER BREEN: Is there any parking in this location, vehicle parking?

CHARLES STUDEN: Yes. The - this is an amendment to the license for the Oxford Street garage, so there are -

COMMISSIONER BREEN: You already have a license for the cars?

CHARLES STUDEN: There's an existing license at 52 Oxford Street for the cars.

COMMISSIONER BREEN: So this is an amendment to that?

CHARLES STUDEN: Correct. For emergency generator that would be added specifically for the northwest building, which is partially on top of that

garage.

COMMISSIONER BREEN: Thank you.

CHAIRMAN SCALI: Make sure that we make note of that. Because if you already have a license that should just be added onto your existing license, is that what you're saying? Just make sure, Mrs. Lint, that we attach it to the other file. All right.

Anybody from the public want to be heard on this matter?

NANCY O'LEARY: Yes.

CHAIRMAN SCALI: Come forward please. Tell us who you are.

NANCY O'LEARY: Nancy O'Leary.

And I -

CHAIRMAN SCALI: And your address?

NANCY O'LEARY: 51 Museum Street, Apartment 1.

THE STENOGRAPHER: O'Leary?

NANCY O'LEARY: Yeah.

THE STENOGRAPHER: Okay. Please come closer.

NANCY O'LEARY: Sure.

THE STENOGRAPHER: That's the microphone over

there.

NANCY O'LEARY: Okay.

Well first of all, I may have misunderstood. I think -- I thought it sounded like a fairly large gas tank and it would be visible. And it sounded like more construction you know. And we have like - in that area it's been so terrible for the last several years. We just - we can't like - that's not a place to live anymore. But unfortunately, I am stuck in this small condo with my son, and that's our home for four years, five years.

And Harvard has non-stop gotten everything they wanted. They've built so many buildings there. We wake up every morning with the sound of construction. It goes on endlessly. And I just - the idea that they're asking for more, it's - and across from where I live it's been cars and trucks parked there for not one year, not two years, but several years.

CHAIRMAN SCALI: Um hum.

NANCY O'LEARY: It's just - so it just sounds like - I just wish someone in Cambridge would say no to Harvard in that area. It's one thing to have a neighbor

build something near you, you know, a project, but it stops after six months, it stops after a year. But they've taken our neighborhood and for several years just made it a construction site. And - and now there's like open roads where huge trucks are coming in from Museum Street now.

Anyway. So I just - the sound of them doing anything more in that corner, building a garage, bringing in a big gas tank, giving themselves a generator, I don't know, you know, it just seems like we can all go get emergency generators for all of our houses and put gas and ask you for a license to have a gas supply there, and for emergencies. But anyway, I just was - it may be simpler than I thought.

CHAIRMAN SCALI: Yeah. We depend on the Fire Department's analysis to make sure that this is a necessity obviously. And I'm assuming that the Fire Department has an opinion on this as to whether it's a necessity for this particular building.

NANCY O'LEARY: Necessity for them to have their own emergency generator where everyone else in Cambridge doesn't have one.

CHAIRMAN SCALI: Well I mean there's other issues to - to be concerned about, not just the issue of losing power. But -

NANCY O'LEARY: But there is an issue just about construction also, how much more work it needs. Like -

CHAIRMAN SCALI: Yeah. Is -

NANCY O'LEARY: -- more building work has to be done for this. Because they said they're building a garage and then bringing in a big tank.

CHAIRMAN SCALI: Well the garage is already there.

CHARLES STUDEN: Yes. There's an -

CHAIRMAN SCALI: Yeah.

CHARLES STUDEN: -- existing parking garage there that was completed a couple years ago.

NANCY O'LEARY: Right. But -

CHARLES STUDEN: And this is going on the B1 level of that garage.

NANCY O'LEARY: But it sounded like there was some more structural thing done. But you're saying there's nothing more to do? You're just asking to bring gas in?

COMMISSIONER BREEN: If the other generator goes out, they'll have this one to - to -

CHAIRMAN SCALI: As a backup.

COMMISSIONER BREEN: -- backup the one that's defective.

NANCY O'LEARY: Right. But I was just asking, is there anymore work to be done in construction?

CHARLES STUDEN: Well the - the generator itself and the tank have to be located in the garage. So there is construction associated with that.

NANCY O'LEARY: And how long would it -

CHARLES STUDEN: But the space is available where it's going.

NANCY O'LEARY: And how long would that take and how many - how much work?

DANIEL CARON: Well the northwest lab is -

THE STENOGRAPHER: I can't hear you, sir.

DANIEL CARON: I'm sorry.

The generator is for the northwest lab, which is partially on top of the existing underground garage and extends further into the site.

CHAIRMAN SCALI: How much construction is it to put in this generator, is what she's asking?

DANIEL CARON: Just the generator?

CHAIRMAN SCALI: Yeah.

DANIEL CARON: It's opening up - I think they're going to open up a hole in the roof of the garage, drop it in, cover it over.

CHAIRMAN SCALI: Is it a one day - one day type thing?

DANIEL CARON: Oh, it's probably a week.

CHAIRMAN SCALI: A week's worth.

DANIEL CARON: But that's not to say that -

CHAIRMAN SCALI: And noise issues are associated with it?

DANIEL CARON: During construction? I wouldn't - I'm sure there'll be some noise issues. I'm not sure what they would be.

NANCY O'LEARY: And it's all safe - do you think it's safe for them to have a -

CHAIRMAN SCALI: Well that's why we have the Fire Department on our Board obviously to make sure. We can ask

Deputy Chief Turner to give us his -

COMMISSIONER TURNER: Mr. Chairman?

CHAIRMAN SCALI: -- analysis.

COMMISSIONER TURNER: Thank you for your questions. Excellent questions.

First, one thing to clarify, it's not gasoline that's going in. It's diesel fuel. And it's for emergency generator. And it's required, actually required by the building code. For certain types of buildings they're required to provide backup power in the event of a power failure. It's for life safety systems backup. So Harvard University is required to have this installed.

With regards to the additional work with all the construction, and I agree - I also live in that neighborhood - and yes, Harvard's been constructing for quite a number of years now, and it does tend to get to you after awhile. But I think it's going to be - it's difficult to differentiate the installation of this tank, versus the rest of the whole construction that's going on down there. So the only thing I -

NANCY O'LEARY: Well why is it safety for them to

have that and individuals - I don't understand why Harvard has to have - would they help citizens if there's an emergency or is it just to help their - I'm not sure -

COMMISSIONER TURNER: Strictly for that building.

NANCY O'LEARY: Yeah, but -

COMMISSIONER TURNER: But all - it's not just Harvard's buildings. Any building that meets a certain criteria, they're required -

NANCY O'LEARY: Oh, has to have -

COMMISSIONER TURNER: -- to have emergency -

DANIEL CARON: It's part of the building code.

NANCY O'LEARY: All right.

DANIEL CARON: It's required.

NANCY O'LEARY: Okay. I just -

COMMISSIONER TURNER: That said, if I could ask Mr. Studen a question?

Just in following along, I realize this is an amendment to an existing. There's also going to be I believe a lot more storage. Has any future calculations or any analysis been done of what's going to be an overall capacity? Perhaps we should start that process now,

instead of just coming in piecemealing it and running into a similar situation that we have down the street. It might be worthwhile to begin that process as far as license applications.

CHARLES STUDEN: We've begun the analysis of what's going to be required in the building itself, but haven't completed that. And my understanding is that the emergency generator needs to be located now for construction purposes. I'm not -

DANIEL CARON: Probably on the schedule of -

CHARLES STUDEN: Correct.

DANIEL CARON: -- construction.

CHARLES STUDEN: And so we thought we'd go forward with that license so we could complete that work and then come back with the - once we know - at this point we don't know entirely what's going to happen or what we're going to need, rather, in the northwest building.

COMMISSIONER TURNER: Okay. It's just - again, it's a recommendation.

CHARLES STUDEN: Yeah.

COMMISSIONER TURNER: Because again, every time

you come up on the radar screen -

CHARLES STUDEN: Um hum.

COMMISSIONER TURNER: -- it's just - you know
you're going to draw attention from the neighbors, and -

CHARLES STUDEN: Yeah.

COMMISSIONER TURNER: -- rightfully so. And just
lay all the cards on the table at once.

CHARLES STUDEN: We understand and appreciate
that.

I also appreciate your comments. There are
others who are as frustrated as you are, and we're trying
to minimize that.

COMMISSIONER TURNER: Also, if I could recommend
-

NANCY O'LEARY: It would just be nice if we had -

COMMISSIONER TURNER: Um hum. Do you have access
-

NANCY O'LEARY: -- no more construction after
next year.

CHARLES STUDEN: Yeah.

NANCY O'LEARY: And let us just live there for a

year or two in quiet.

COMMISSIONER TURNER: Do you have e-mail?

NANCY O'LEARY: Yeah, I do. But -

COMMISSIONER TURNER: One thing we may - if -
I'll also recommend, as the project manager on this, or
representative from Harvard, is similar to the Grant Street
project -

CHARLES STUDEN: Um hum.

COMMISSIONER TURNER: -- they have the weekly
neighborhood construction updates.

CHARLES STUDEN: Yes.

COMMISSIONER TURNER: Perhaps that might be
something to explore for -

NANCY O'LEARY: Well I mean they list it. It's
actually horrible to read it because you read it and it
tells you -

COMMISSIONER TURNER: It's more frustrating -

NANCY O'LEARY: -- oh, guess what, now -

COMMISSIONER TURNER: -- because it tells you
more -

NANCY O'LEARY: -- they're like opening the doors

right behind you where you live and you're going to have huge trucks coming in and out. Like it's horrible to read it. They post it. They just tell us what they're doing. But I'm in the wrong community to be complaining about this. I should have come to more of the building permits hearings. But I didn't - I didn't realize how long and how horrible - how really terrible it is to live there.

COMMISSIONER BREEN: Mr. - Mr. Chairman?

NANCY O'LEARY: It's really kind of taken away my home. And all of our neighbors feel that. People have died now. I mean just elderly people. They've taken their neighborhood for not just one year, two years, but five years. And they had to, you know, give up their neighborhood. And, you know, our elderly residents have - one of them died just recently. But just like great way to end the time. And just, you know, that they would have not considered that, to go in one neighborhood, and go on for more than two years is really just terrible.

CHAIRMAN SCALI: The construction period?

NANCY O'LEARY: Yeah.

CHAIRMAN SCALI: Thank you very much -

NANCY O'LEARY: Okay.

CHAIRMAN SCALI: -- for your comments.

NANCY O'LEARY: Thank you.

CHAIRMAN SCALI: Anybody else want to be heard on
this matter?

(No response)

CHAIRMAN SCALI: Motion to take the matter under
Advisement. Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

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CHAIRMAN SCALI: Mrs. Lint, can we - can we skip to the Druid? There was a request by the attorney to be heard before 7:00 p.m., and it's now 7:00 p.m. So if we could skip down one, I would appreciate that.

ELIZABETH LINT: Application, Cillstifann, Incorporated d/b/a as The Druid, Dennis C. Morse, manager, holder of an all alcoholic beverages as a restaurant 1:00 license at 1357 Cambridge Street has applied to increase their hours to 2:00 a.m. on Thursday, Friday, Saturday, and Sunday only when Monday is a legal holiday.

CHAIRMAN SCALI: Okay. The Druid. Have a seat. Mrs. Lombardi, how are you?

ATTORNEY KATHLEEN LOMBARDI: Good, thank you.

DENNIS MORSE: Hello.

CHAIRMAN SCALI: Good evening. If you could just all tell us who you are for the record, start right here and go down the row.

ATTORNEY KATHLEEN LOMBARDI: Kathleen Lombardi, L-o-m-b-a-r-d-i, with Adams and Rafferty.

DENNIS MORSE: Dennis Morse, M-o-r-s-e, with The Druid, the manager.

MICHAEL CRAWFORD: Michael Crawford.

THE STENOGRAPHER: Michael?

MICHAEL CRAWFORD: Yeah. Crawford.

THE STENOGRAPHER: Crawford?

MICHAEL CRAWFORD: C-r-a-w-f-o-r-d.

THE STENOGRAPHER: Thank you.

CHAIRMAN SCALI: Just refresh my memory. This was - you're new owners of this particular location, right?

MICHAEL CRAWFORD: Yeah. Almost two years.

CHAIRMAN SCALI: Are any of the existing people from before that are still there or are all - all the old Druid people gone?

ATTORNEY KATHLEEN LOMBARDI: They're all gone.

CHAIRMAN SCALI: They're all gone. Okay. I had the recollection that there were some partners that stayed on or something, but I'm wrong about that.

ATTORNEY KATHLEEN LOMBARDI: No.

CHAIRMAN SCALI: No. Okay.

COMMISSIONER BREEN: What are your current hours now seven days? Seven day hours?

ATTORNEY KATHLEEN LOMBARDI: 1:00 a.m.

COMMISSIONER BREEN: 1:00 a.m.? And what time do you open?

MICHAEL CRAWFORD: We open at 11:00.

COMMISSIONER BREEN: 11:00 a.m.?

MICHAEL CRAWFORD: Yeah.

COMMISSIONER BREEN: And Mr. Chairman, does this fit under the cap policy?

CHAIRMAN SCALI: This would be a cap issue, Captain.

COMMISSIONER BREEN: Counselor, would you - would you focus in on extraordinary need, overwhelming public support, public good? Evidently I'm - I've been here for awhile. I don't see any disturbances on the record. And there hasn't been any parking issues. So for us to even consider doing this, focus on those three, extraordinary need, overwhelming public support, and public good. You don't have to focus on the latter two.

ATTORNEY KATHLEEN LOMBARDI: Sure. I just submitted to Ms. Lint a number of signatures on behalf of this application in favor and in support from patrons and neighbors in the area. Also, a letter of support from the

Inman Square Business Association.

I think the level of support shows that there is a need in the neighborhood, and that patrons who oftentimes wish to stay out later on the weekends than they would during the week would like to be able to stay at the establishment they're at, as opposed to leaving and heading someplace else.

Given the proximity of this establishment to Somerville as well, you know, patrons could choose to just go over to a restaurant in Somerville instead if they wanted to stay out later, and not leave, and go from one place to the other.

So I think it goes to the - the need and, you know, the overall good of the City of Cambridge to be able to keep Cambridge residents at Cambridge establishments.

COMMISSIONER BREEN: So in other words, to keep a level ball field so they could be on the level with Somerville and not lose customers for that last hour?

ATTORNEY KATHLEEN LOMBARDI: That is correct.
And patrons -

COMMISSIONER BREEN: This would give -

ATTORNEY KATHLEEN LOMBARDI: -- who would normally want to stay at The Druid might find themselves in a position where they either have to go home early or they -- they go someplace else.

COMMISSIONER BREEN: Thank you, Counselor.

CHAIRMAN SCALI: So you submitted a petition? Oh, it's right here. I'm sorry.

And you've been there how long?

ATTORNEY KATHLEEN LOMBARDI: Two years.

DENNIS MORSE: Two years.

MICHAEL CRAWFORD: Two years.

CHAIRMAN SCALI: Did we have any hearings on this particular matter? Wasn't there a hearing on an issue we had last year on this particular location? I know you had an issue with your back door or your -

ATTORNEY KATHLEEN LOMBARDI: Yeah. That was the initial application at the initial transfer hearing.

CHAIRMAN SCALI: From the old owners to the new ones?

ATTORNEY KATHLEEN LOMBARDI: Correct. That's correct.

CHAIRMAN SCALI: All right. Is there anything else you want us to know before we start calling up -

ATTORNEY KATHLEEN LOMBARDI: Well just -

CHAIRMAN SCALI: -- people?

ATTORNEY KATHLEEN LOMBARDI: -- that, you know, they've been a responsible licensee for the last couple of years. And they do what they can to -

COMMISSIONER BREEN: Oh, since you've done an effective job, as you usually do, Counselor, we've got by the cap issue on whether or not we can consider this.

Now I'd ask the Chairman to consider any other, whether it be written or oral evidence, to support.

CHAIRMAN SCALI: All right. Anybody want to be heard on this matter? Please come forward. Pull up a chair here somewhere. I would appreciate it. That would be great. Good evening. Just tell us who you are and your address?

GILL AHARON: My name is Gill Aharon, A-h-a-r-o-n. I live next door.

THE STENOGRAPHER: I'm sorry. Do that again.

GILL AHARON: Sure. A-h-a-r-o-n.

THE STENOGRAPHER: Gill?

GILL AHARON: Right. Two L's.

THE STENOGRAPHER: Just bring your chair a little closer. There's the microphone right here.

GILL AHARON: Oh, I see.

THE STENOGRAPHER: Thank you.

CHAIRMAN SCALI: And your address?

GILL AHARON: 1353-1355 Cambridge Street. I'm their next door neighbor. We share a wall.

CHAIRMAN SCALI: Okay. And you are in support or

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GILL AHARON: Absolutely in support. I - I eat there regularly. I'm there. I own the building next door. We have people that come to our place. They go over to The Druid a lot. We have a little theater that's there, and there's no alcohol there, so they go next door to The Druid.

CHAIRMAN SCALI: Which theater is that?

GILL AHARON: It's the Lily Pad. It used to be the Zeitgeist Gallery. It's not really - it's zoned as a theater, but we keep it small. It's a very small

operation.

CHAIRMAN SCALI: I'm just wondering whether they did the license, Mrs. Lombardi. You shouldn't have spoken. We'll have to see about that. This doesn't ring a bell with me though.

GILL AHARON: (Inaudible)

THE STENOGRAPHER: I'm sorry, sir?

GILL AHARON: No. It's not important.

CHAIRMAN SCALI: He said that they had a hearing a couple of years ago, but that was on the Zeitgeist.

GILL AHARON: Right. But - yeah. I was the one
-

CHAIRMAN SCALI: Yeah.

GILL AHARON: -- who filed the petition.

CHAIRMAN SCALI: Right. So you are in support? You feel there's a need because your theater goes to go over and have a drink -

GILL AHARON: Absolutely.

CHAIRMAN SCALI: -- between 1:00 and 2:00 a.m.?

GILL AHARON: Yeah. And it's just a shame that people come out and it's still, relatively speaking, early

on a weekend, especially in the summer, and that they can't stay in Inman Square.

CHAIRMAN SCALI: Thank you very much.

Anybody else want to be heard on this matter?

Please come forward.

If you can leave that chair there, that would be great.

GILL AHARON: Oh, yes.

CHAIRMAN SCALI: Thank you.

Hello.

DAVID FARRELL: My name is David Farrell.

THE STENOGRAPHER: Last name?

DAVID FARRELL: F-a-r-r-e-l-l.

And my address is 340 Harvard Street.

I'm a musician by trade. And I met Mikey, when he managed the back room. And they just opened up the bar and they took it from a new business to being an internationally renowned musical room, I guess. And Mikey ran the room, and the band, and he's got a great reputation with American artists and European artists.

And I just think it's very important that there

is a local room or a local bar that can give young musicians a chance to play you know. And it's - there's a bunch of musicians that have played under the previous owners that have gone on to bigger and better things. And it's a great outlet for young local artists. And I think it's important that we all recognize that.

It's good that there are certain managers and owners that do more than just sell beer and make a profit. And I think that culturally and - you know that he's giving a lot to both Inman Square and to Cambridge itself and should be recognized and rewarded and supported I think.

COMMISSIONER BREEN: In your opinion, sir, there's an extraordinary need both by the young artists that are starting out and people like you who like to -

DAVID FARRELL: I think so.

COMMISSIONER BREEN: -- see these people in action?

DAVID FARRELL: Yeah. I think so. And the other thing is that it's - it's hard for the smaller owner to compete with some of the bigger venues in Central Square when they have the 2:00 o'clock license, because they can -

they're making more money, they can pay the artists more. So it's harder for the smaller guy like Mikey to try and compete with the big names.

So I think that as a punter, as someone who goes in and enjoys having some good food and some good music, it's - it's more intimate to sit in somewhere like The Druid and enjoy some local music and some good food than standing in line as at the Middle East you know. So I just want to -

CHAIRMAN SCALI: Thank you very much.

DAVID FARRELL: Thank you.

THE STENOGRAPHER: Mr. Farrell, as a pinter?

DAVID FARRELL: Punter. Punter. I'm actually a pinter as well, okay? Punter. A spender of money.

THE STENOGRAPHER: Oh. Thank you.

CHAIRMAN SCALI: Anybody else want to be heard on this matter? No? In support? Either for or against?

JOHN CLIFFORD: Hello.

CHAIRMAN SCALI: Mr. Clifford, are you here on behalf of the Mayor or on behalf of yourself?

JOHN CLIFFORD: On behalf of the Mayor.

John Clifford. I live at 55 Aberdeen Ave in Cambridge. And I work for the Mayor of Cambridge.

I'm here in support of The Druid because they bring in the arts to the city. And it's been a place for people in the community to meet and relax. So I think there's some extraordinary need for them, and I think it's a good idea.

CHAIRMAN SCALI: So you'll frequent there, and the Mayor will go there and see the entertainment between 1:00 and 2:00 a.m. and enjoy a pint of ale?

COMMISSIONER BREEN: Will the - will the Mayor sing Irish tunes also?

JOHN CLIFFORD: The Mayor doesn't drink. So - so he - he won't be there.

CHAIRMAN SCALI: He'll have some food? All right. Thank you, Mr. Clifford. Thank you very much.

Any questions?

(No response)

CHAIRMAN SCALI: Anybody else want to be heard on this matter? Mr. Greco, and then the gentleman in the back.

ATTORNEY JOHN GRECO: Good evening.

CHAIRMAN SCALI: Good evening.

ATTORNEY JOHN GRECO: My name is John Greco. I'm an attorney for Julie Burns at 7 to 9 Springfield Street.

THE STENOGRAPHER: Excuse me. Your last name?

ATTORNEY JOHN GRECO: G-r-e-c-o. Greco.

THE STENOGRAPHER: And you're an attorney for?

ATTORNEY JOHN GRECO: Julie Burns.

THE STENOGRAPHER: Thank you.

ATTORNEY JOHN GRECO: Who owns the property at 7 to 9 Springfield Street, which immediately abuts The Druid.

I realize about the issue of balance. And I think, you know, we've always got a balance of residential and commercial. I mean we have the same thing here clearly. I know there's also a balance with regard to allowing this business to create more patrons and succeed, and certainly no one's against that.

But we're also concerned about the residential property next door -- it's a three family house -- and the ability to continue having residents if this license is extended to later hours.

I know the counsel for the petitioner talked about comparisons with identified - with unidentified Somerville businesses. And I'm sure there are some that are competing, but there are others that have similar situations. And really it's not a competitive situation there.

I think they talk also about a bigger venue. They can't compete with bigger venues. But this is a very very small space. It's a space where there's no live music allowed. And are they going to compete with the bigger venues anyway with that as a parameter?

As far as the arts go, certainly we all are in favor of the arts. It's great for people to meet and relax. But the question is at what level should the people be meeting and relaxing to the extent where it may be bothering a neighbor, a neighbor who's been there a long time?

Now we were here a couple of years ago on this license. Unfortunately my client trying to let things go and work with them did not complain, as they probably should have. They probably should have put complaints in

to the License Commission. But there was an agreement at that time to keep the rear door closed. That agreement has been violated on a number of occasions.

There was also an agreement at that time that people would not hang out in the back yard. They often hang out until 12:30 or as late as 1:00 o'clock even. People come in the back door. They use the back door as an exit, and they exit through the - as an entrance and as an exit. And naturally they go out there and they smoke. And in order to do that, they open the back door and the back door stays open and they're out there smoking.

There have been situations with patrons. And this happens - my clients are here. They're saying it probably happens at least once a month, sometimes more, where patrons have urinated in the back yard. And that's happening at least once or twice a month.

You know there are other minor annoyances. You people flipping cigarette butts as they exit the building, our building as well as their own building actually. They sometimes clean up late at night. They throw the water across the yard. Not the end of the world. However, they

do clean up at night very often after closing time. And if they close at 1:00, they're cleaning up until 1:00, 1:30 - until 1:30, quarter of 2:00 sometimes in the morning.

It's a normal thing that when a bar closes people hang around outside the bar for a certain period of time, half an hour or whatever, and talk. And that's happening. And it's happening in the back as well as in the front.

So I think that there are some other issues. And I guess shame on my clients for not having bothered the city officials with this in the past, but they've tried very hard to just work with them and ignore it and let it go. And they're trying to put up with it. They're trying to work with it. They're not trying to complain. They're trying to make the best of that last licensing agreement. But by the same token, they feel that if this goes until 2:00 o'clock in the morning, it's going to just exacerbate an already difficult situation and make it a very bad one.

So for that reason we are opposed to the extension till 2:00 o'clock.

COMMISSIONER BREEN: Counsel -

With your permission, Mr. Chairman.

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: Counsel, is your client - have they called the police or have they called the Inspectional Services or have they called the License Board for any of these nuisance complaints?

ATTORNEY JOHN GRECO: No. As I alluded to originally, sir, they did not do that. And my advice to them was to do that, but they said, well it's not that bad, we'll let it go, they'll correct it later on. But they did not unfortunately.

COMMISSIONER BREEN: I'm trying to - I'm trying to be fair to both folks. So my next question would be, what would be the adverse effect on what's going on currently if one hour was added? Do your clients feel things would change with that one hour?

ATTORNEY JOHN GRECO: Yeah. I think the problems would just go later into the evening. So in other words, instead of people out there sometimes at 12:30 or quarter of 1:00 in the evening, it would be 1:30, quarter of 2:00 in the evening. So that the difficulty that - you know they're trying to bear with as much as they can - would now

become a more - just a more irritating problem.

COMMISSIONER BREEN: What type of building is this dwelling? Is it a three family?

ATTORNEY JOHN GRECO: It's a three family, that's correct.

COMMISSIONER BREEN: And to your knowledge, do any of the residents in the other two parts of the building, have they complained in the past?

ATTORNEY JOHN GRECO: To the city, city officials?

COMMISSIONER BREEN: To the aforementioned agents, either by -

ATTORNEY JOHN GRECO: Not - not that I'm aware of, sir.

COMMISSIONER BREEN: Thank you, Counsel.

ATTORNEY KATHLEEN LOMBARDI: If I may, I believe some of those - the residents in the building are actually in support of the application.

DENNIS MORSE: Yeah. They've signed the petition.

CHAIRMAN SCALI: People that live in that

building are -

MICHAEL CRAWFORD: Yeah.

DENNIS MORSE: Yes.

CHAIRMAN SCALI: -- in support?

ATTORNEY JOHN GRECO: In 7 to 9 Springfield
Street?

MICHAEL CRAWFORD: Yes.

DENNIS MORSE: Yes.

ATTORNEY JOHN GRECO: Who are - who are they?

ATTORNEY KATHLEEN LOMBARDI: There's a signed
petition.

CHAIRMAN SCALI: They signed the petition.

THE STENOGRAPHER: Excuse me. One person talk at
a time.

CHAIRMAN SCALI: I'm sure we can find that if we
have to.

I'm wondering, is it - with the new owners coming
in there the past couple of years, is it better or is it
worse than what was there previously? I know there was
issues with the previous owners. But I'm wondering - I was
hoping that with the new owners it would have been better

for your clients.

ATTORNEY JOHN GRECO: I would say in fairness it's better than before. And that's one of the reasons my clients have not complained, because they felt they were trying. But it's still not a - not a good situation. But again, not so much that they would want to return to the previous situation. But still, going till 2:00 o'clock they feel would make it just enough that it would become a bigger problem, much bigger problem.

CHAIRMAN SCALI: Later in the evening?

ATTORNEY JOHN GRECO: Later in the evening, correct.

CHAIRMAN SCALI: Yeah. I do see 9 Springfield Street, No. 2, in support.

All right. Is there anything else you want us to know? Thank you very much.

ATTORNEY JOHN GRECO: Thank you.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: I guess there's somebody else.

CHAIRMAN SCALI: There's one - one more person that wanted to speak.

Hello.

JOSEPH MCCABE: Hello.

CHAIRMAN SCALI: Tell us who you are.

JOSEPH MCCABE: My name is Joseph McCabe. I live at 212 Hamilton Street in Cambridge.

THE STENOGRAPHER: Joseph?

JOSEPH MCCABE: Joseph McCabe.

CHAIRMAN SCALI: Mr. McCabe.

THE STENOGRAPHER: Spell your last name.

JOSEPH MCCABE: M-c-C-a-b-e.

THE STENOGRAPHER: Thank you.

JOSEPH MCCABE: I've lived in Cambridge for 20 years. The first 10 years I lived in Cambridge was actually in Inman Square in 1364 Cambridge Street. 1365 a couple of years later. I'm also here as a license holder for the City of Cambridge.

When The Druid was there and the festivals were on, the Patrick's Days festivals and the big events, the big cultural events, it was a shame to have to go somewhere

else at the time. But as the years passed, we went to do business in Central Square, and actually the City of Cambridge gave us a 2:00 o'clock license. That 2:00 o'clock didn't actually bring anymore people to us as such, but it did help us accommodate the customers that were already there because they didn't have to go to wherever they went to before previous to that.

I do know Mikey. I've known him almost 20 years as well. And as the musician said, it is a great place for cultural elements. And Inman Square is different. When you go to Inman Square you kind of stay in Inman Square -

CHAIRMAN SCALI: Um hum.

JOSEPH MCCABE: -- for that's, you know, the music scene up around that area.

And basically what I'm here for is to show support for these people and their business in Inman Square in Cambridge.

CHAIRMAN SCALI: You don't think it would be competition for your place, huh?

JOSEPH MCCABE: Competition is good. I mean we accommodate the people the way we can accommodate them.

CHAIRMAN SCALI: And people tend to stay a little bit later? If they don't have to leave at 1:00 o'clock, they stay there more spread out between 1:00 and 2:00? But is it - you say it's not - it's not busier than it has been?

JOSEPH MCCABE: No, no. It would stay the same. If you had a nice - a nice crowd at - what was happening in Central Square was that at 20 past 12:00 the younger kids would go. By quarter to 1:00, the regular people would be gone, usually over the Mass Ave bridge at the time, or wherever they used to go a few years back.

And the same with these people. If they have 50 people sitting there listening to music and talking and - it is a conversation bar more so. You know it's a lovely spot for that sort of stuff. But again, if you're out with your four or five friends and it's 20 past 12:00 you know -

CHAIRMAN SCALI: They tend to leave?

JOSEPH MCCABE: -- as nice as it is, you have to leave.

COMMISSIONER BREEN: In your opinion, you would retain the crowd that's in the establishment, but you would

most likely not have additional crowd coming in -

JOSEPH MCCABE: Yeah.

COMMISSIONER BREEN: -- for that last hour?

JOSEPH MCCABE: Because everywhere else is 2:00 o'clock anyway. So the people you have would - you're not going to get a big rush at quarter past 1:00 because it's 2:00 o'clock, when everybody else is 2:00 around them anyway. And as I said -

CHAIRMAN SCALI: Who else is 2:00 - I'm sorry. Who else is 2:00 a.m. around - around?

ATTORNEY KATHLEEN LOMBARDI: McKowsky Tavern.

MICHAEL CRAWFORD: McKowsky.

CHAIRMAN SCALI: McKowsky's?

DENNIS MORSE: B-Side. The Field.

JOSEPH MCCABE: Around Central Square.

CHAIRMAN SCALI: Yeah. You're - you're on the other - I know. Central Square is -

JOSEPH MCCABE: We could walk - you know you could walk to - from Inman Square to Central Square in 15 minutes on a nice night.

CHAIRMAN SCALI: Down Tremont Street. Yeah.

JOSEPH MCCABE: You know? And we do live and hang around - like Inman Square was always their spot you know. It's a lovely spot.

COMMISSIONER BREEN: Is The Field 2:00 a.m.?

CHAIRMAN SCALI: The Field, yeah. Phoenix Landing and McKowsky's and -

DENNIS MORSE: B-Side.

COMMISSIONER BREEN: All those are 2:00 a.m.?

CHAIRMAN SCALI: Yeah.

JOSEPH MCCABE: And as I resident, I just wanted to show support for these people. Thank you very much.

CHAIRMAN SCALI: Thank you.

Anybody else want to be heard on this matter?

(No response)

CHAIRMAN SCALI: No other hands.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: I'll make a motion that we vote on this Thursday morning.

CHAIRMAN SCALI: You get the last word, Mrs. Lombardi. Anything else you want us to know?

ATTORNEY KATHLEEN LOMBARDI: Sure. I just wanted to wrap - wrap it up by saying that this has been a responsible licensee. They're just looking for an opportunity to better serve their customers and really be able to compete also with the establishments in the area. McKowsky Tavern I think was approved within just the last year.

So they take pains to - to really work things out with their neighbors. I know they've actually had - they've had many communications with the dissenting neighbor behind them, Springfield Street, since they've been there, and I know they would be willing and able to do so in the future.

CHAIRMAN SCALI: Yeah. I just - you know any time a resident lives right behind a restaurant or bar, there is always going to be some issues. But I think the Burns have been pretty consistent in making sure that this is a livable quiet space for them.

I know. I think you've done a better job than the previous owners had done. But, you know, there's a legitimate concern that once the hours are extended, that a

different clientele comes in there, and therefore, the noise is later in the evening and disturbs the residents. So there's a legitimate concern that the residents have. I just want to make sure that your clients understand that.

ATTORNEY KATHLEEN LOMBARDI: There are apartments and residences in the - in the building itself as well. So it's in their best interest to make sure that the noise is kept down and things are working as they should be to keep people in the building happy.

COMMISSIONER BREEN: From the record at hand, they've done a good job on disciplinary matters over there. And I would suggest, to go along with the Chairman, that they put some sort of control points to effect the proactive and prevent any noise occurring if we were to vote for that hour.

MICHAEL CRAWFORD: Yeah. Absolutely.

CHAIRMAN SCALI: All right. Motion to take the matter under advisement. Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: We'll vote Thursday morning at
10:00 a.m.

MICHAEL CRAWFORD: Great. Thank you very much.

DENNIS MORSE: Thank you very much.

(Off the record)

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ELIZABETH LINT: Commission, Olivraquel, Incorporated d/b/a O'Cantinho, Joseph Cerqueira, manager, holder of a wine and malt beverages as a restaurant license at 1128 Cambridge Street, to upgrade to an all alcoholic beverages restaurant license at this location. The license is in Capped Area #7.

CHAIRMAN SCALI: O'Cantinho.

JOSEPH CERQUEIRA: Good evening.

CHAIRMAN SCALI: Are you all by yourself?

JOSEPH CERQUEIRA: No. My wife's with me.

CHAIRMAN SCALI: No big legal entourage?

JOSEPH CERQUEIRA: No, not that - Joseph Cerqueira, C-e-r-q-u-e-i-r-a.

COMMISSIONER BREEN: Are you closed Sundays?

JOSEPH CERQUEIRA: Yes.

COMMISSIONER BREEN: What's your hours now?

JOSEPH CERQUEIRA: 11:30 - 11:30 till 10:00 p.m.

COMMISSIONER BREEN: To 10:00 p.m.? Now they would fall under the same criteria for the cap?

CHAIRMAN SCALI: Well it is an upgrade from beer and wine to full alcohol.

And you - are you - let's see, are you in a capped zone?

ELIZABETH LINT: Cap 7.

CHAIRMAN SCALI: Cap area #7.

COMMISSIONER BREEN: So they'd have to -

CHAIRMAN SCALI: Yeah.

COMMISSIONER BREEN: -- fit into the conditions.

Sir -

Is that correct?

CHAIRMAN SCALI: Yes, it is.

COMMISSIONER BREEN: Sir, for us to even consider voting on this, you have to prove to the Board you have extraordinary need, overwhelming public support, public good, and no prior disturbances. And then if you fit into those criteria - that criteria, then we can go on with the - with the other questions. So could you just talk about the overwhelming public support and extraordinary need?

JOSEPH CERQUEIRA: We - we have quite a few signatures from customers who have been patrons for a long time.

THE STENOGRAPHER: Please keep your voice up,

sir.

JOSEPH CERQUEIRA: And the need, it's to have in a Portuguese restaurant brandies for after dinner drinks. That's what make it more of a need than anything else. Now the trend for - is in Portuguese restaurants. So that's - that's the need.

CHAIRMAN SCALI: Do you have a bar there?

JOSEPH CERQUEIRA: No.

CHAIRMAN SCALI: No bar?

JOSEPH CERQUEIRA: We don't. No.

CHAIRMAN SCALI: So it's a restaurant, all tables and chairs?

JOSEPH CERQUEIRA: Correct.

CHAIRMAN SCALI: So this would be a supplement to the food?

JOSEPH CERQUEIRA: Correct.

CHAIRMAN SCALI: And it's primarily for the Portuguese liquors and the -

JOSEPH CERQUEIRA: Yeah. Brandies.

CHAIRMAN SCALI: Brandies?

JOSEPH CERQUEIRA: Yeah.

COMMISSIONER BREEN: Is the majority of your customers Portuguese?

JOSEPH CERQUEIRA: No. No. No. But we attract a lot of them.

COMMISSIONER BREEN: A lot of your -

CHAIRMAN SCALI: All righty.

COMMISSIONER BREEN: So this would be an extraordinary need for them or they'd go elsewhere -

JOSEPH CERQUEIRA: Yes.

COMMISSIONER BREEN: -- in your opinion?

JOSEPH CERQUEIRA: Yeah. They do. They do. They frequent other locations. And sometimes I compete with myself on Hampshire Street, which is wonderful, but -

CHAIRMAN SCALI: Oh, with Atasca?

JOSEPH CERQUEIRA: Atasca. Yeah.

COMMISSIONER BREEN: And this, were it granted, you'd retain the same clientele, but you think you'd get additional clientele?

JOSEPH CERQUEIRA: Probably not. Probably.

COMMISSIONER BREEN: So the parking wouldn't be affected?

Do we have any - Counselor, do we have any letters of opposition?

ELIZABETH LINT: None.

COMMISSIONER BREEN: Mr. Chair, do we have anybody in the audience in opposition?

CHAIRMAN SCALI: Anybody who wants to be heard please come forward. Mr. Clifford will hop right in. And this gentleman right after that.

JOHN CLIFFORD: John Clifford, a resident of Aberdeen Ave, 55 Aberdeen Ave in Cambridge. And I work for the Mayor.

And the Mayor sent me here to support this petition for a liquor license. The Mayor and I eat there, too. So it's not just Portuguese. So -

CHAIRMAN SCALI: The Mayor's keeping you busy tonight, isn't he?

JOHN CLIFFORD: All right. So thank you very much.

CHAIRMAN SCALI: So you're in support. Okay. And you feel there's a need and overwhelming support in -

JOHN CLIFFORD: Yeah.

CHAIRMAN SCALI: -- the area for this?

JOHN CLIFFORD: I think it's - I think that restaurant and his other restaurants are community places, you know, that people expect the whole dining experience.

CHAIRMAN SCALI: And you don't think it will have an adverse effect on the area?

JOHN CLIFFORD: No, absolutely not.

CHAIRMAN SCALI: Thank you very much, Mr. Clifford.

Thanks.

BILL SAGE: Mr. Chairman.

CHAIRMAN SCALI: Good evening.

BILL SAGE: Bill Sage, formerly of the Radisson Hotel in Cambridgeport.

THE STENOGRAPHER: Your first name again?

BILL SAGE: Bill Sage, like -

THE STENOGRAPHER: S-a-g-e?

BILL SAGE: Like the spice.

THE STENOGRAPHER: Thank you.

BILL SAGE: I'm a patron of the restaurant. I've known the Cerqueira family for a long time. They're

responsible operators. I think the way business is going today it's very tough, and I think anything to enhance their business is needed. And I think something like having this full liquor license is something that will definitely make a difference in their generating more dollars and helping their business. And I hope -

COMMISSIONER BREEN: Do you feel because of the current situation all over that it's very important just to survive to have this as a supplement to the meal?

BILL SAGE: I mean people -- in Somerville there's a restaurant operator - it's really tough out there today.

COMMISSIONER BREEN: That would be really bottom line -

BILL SAGE: Yeah.

COMMISSIONER BREEN: -- to survive?

BILL SAGE: Yeah.

COMMISSIONER BREEN: Thank you.

CHAIRMAN SCALI: Thank you, Mr. Sage.

BILL SAGE: Okay.

CHAIRMAN SCALI: Sir?

TED DARLING: How are you?

CHAIRMAN SCALI: How are you?

TED DARLING: Good.

CHAIRMAN SCALI: Give us your name.

TED DARLING: I'm Ted Darling. I live at 157 Pleasant Street in Cambridge.

THE STENOGRAPHER: Your last name?

TED DARLING: Darling, D-a-r-l-i-n-g.

THE STENOGRAPHER: Thank you.

CHAIRMAN SCALI: Pleasant Street?

TED DARLING: Yes. 157.

I'm here in support of Joe and Maria's restaurant. I often go over there a couple of times during the month. And I've known them for quite awhile. And I'm here to support them. Thank you.

CHAIRMAN SCALI: Thank you very much.

Anybody else want to be heard?

(No response)

CHAIRMAN SCALI: I see there are a number of letters of support here. I guess a letter from Middlesex Sheriff, James DaPaolo in support. A letter from Senator

Barios in support. Registry of Probate, John Wanomo.
Councilor Sullivan. Councilor Decker. Councilor
Galluccio. Councilor Murphy. Vice Mayor Toomey. And Mr.
Fantini from the school committee.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: I'll make a motion that we
vote on this Thursday morning.

CHAIRMAN SCALI: All right. Motion to -

COMMISSIONER TURNER: Seconded.

CHAIRMAN SCALI: -- take the matter under
advisement. Moved. Seconded.

All in favor?

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: Thank you very much.

(Off the record)

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CHAIRMAN SCALI: All right. We're moving along fast. I bet you thought we were going to be a lot later than we are.

COMMISSIONER BREEN: Mr. Chair, you're looking at the president of the Harvard Square Defense League.

CHAIRMAN SCALI: Oh, no, no. She'll sit through. As long as we're here I know Mrs. Nathans will be here as late as possible.

ELIZABETH LINT: Application, Claus de Bansa d/b/a Prince of Arcadia Real Estate, Claus de Bansa, resident manager, has applied for a lodging house license with four rooms and six occupants at 179 Prospect Street.

CHAIRMAN SCALI: Mr. De Bansa? 179 Prospect Street? No, not here?

COMMISSIONER TURNER: Second call?

CHAIRMAN SCALI: Second call. He should have been here an hour and a half ago actually.

COMMISSIONER TURNER: He's been trying to get on the agenda for what -

CHAIRMAN SCALI: Yeah.

COMMISSIONER TURNER: -- about six months now?

CHAIRMAN SCALI: It's been awhile.

Mr. de Bansa not here? Anybody out in the hall?

UNIDENTIFIED VOICE: I'm asking out here.

CHAIRMAN SCALI: Okay.

ELIZABETH LINT: He may have thought that because
of the zoning issues that -

CHAIRMAN SCALI: Yeah. All right. We'll just
contact Mr. de Bansa to find out. He's a no show.

(Off the record)

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CHAIRMAN SCALI: All right.

We're going to the end of our agenda. We're going to be - the policy issue now. We're going to be talking about our policy issue. So if you all could be very patient. You all will be heard. And we have a number of different letters and - with regard to this matter. So we'll take as long as we have to to hear everybody individually.

And if you hear somebody say something that you were - that you were going to say, please just say, ditto, I agree, or I agree, plus whatever else you want us to know. So you don't have to repeat yourself. Just tell us if you - you agree or disagree.

ELIZABETH LINT: A review of the alcohol cap policy conditions passed on April 11th, 1986. Included in this review will be Addenda A, B, C, and D of the Rules and Regulations of the Cambridge License Commission. The Rules and Regulations are available to be viewed at the License Commission, 831 Mass Ave. I have copies of them here if anybody's interested.

CHAIRMAN SCALI: Just for informational purposes,

this is really a review of our policy. There is nothing proposed that we have as changes. It's strictly to take comments on the current policy now. And if you suggest that there are some changes, please let us know what you think they should or should not be.

Anybody want to be heard on this matter, please come forward.

JOHN ALBERTS: I'm John Alberts. I own the Courtside Restaurant, 299 Cambridge Street, Cambridge.

And I'm against the removal of the cap policy. I - our family has had the liquor license since 1943. It was originally my father's and he paid for it. And it's really burnt me to see all the liquor licenses just being giving out.

We've worked since then, and I've been pretty much there all my life working, except for a brief time when I taught school in Boston. And I was - I kind of forgot to - I met somebody here tonight and they told me about how this - how - why Cambridge is different from the rest of the state. And I knew it was different, but I didn't realize - it actually went through, I was told, by a

mistake, that the City Council, David Sullivan, was looking for extra licenses, and they applied through home rule petition through the state. And what they didn't realize is they removed the cap. The ABC said that after they applied for this, they removed - that they removed the cap, and they didn't know that.

And right now I'd say we probably have double the amount of licenses per capita than Cambridge, Somerville, and every other community in the state. I don't think - there might be one other one that doesn't go by state per capita.

I just don't think it's - I think we have enough liquor licenses. I was told originally - and I think Al Velucci was the Mayor at the time when we found out what happened. He said they wanted liquor licenses available because hotels were coming into Cambridge. And this was early '80s I believe. Do you know when it was overruled?

CHAIRMAN SCALI: It goes back to '80 - '81, '82, '83.

JOHN ALBERTS: '81, '82. And -

CHAIRMAN SCALI: Yeah. With regards to -

JOHN ALBERTS: -- at that time there were hotels coming in. And I think quite a few more licenses were given out than they were for the hotels. And - and to come to this point and just see that it isn't enough that we've been giving them out. And, you know, I know you had a hearing just now and there's been other ones. It just bothers me to a point that I didn't want to come tonight because I was afraid I was just going to get too upset. But it just isn't right that one person would pay for one and another person not pay for it.

To me that isn't right. Especially people -- and there's very few of us left - that have worked, and their families have worked building a business and trying to gain equity by having a business. And part of that equity was a liquor license, which was a commodity, but now it's just gone out of sight.

But I'm against it, and I think pretty much anyone who paid for a liquor license in the city is against it. And I don't think the people of the city, the residents, realize how many liquor licenses there are over the state cap. In fact, I'm sure that - I'm probably the

only one that's still around that remembers what it was like. But I'm not that old. But - in any case, thank you.

CHAIRMAN SCALI: All right. Thank you very much. Anybody else want to be heard? Please come forward.

JOHN ALBERTS: She's older than me.

CHAIRMAN SCALI: I don't think so, John.

DOROTHY VETRANO: No. We're around the same age. My name is Dorothy Vetrano. I live at 49 Gore Street in Cambridge.

THE STENOGRAPHER: Spell your last name please.

DOROTHY VETRANO: Vetrano, spelled V, as in Victor, e-t-r-a-n-o.

THE STENOGRAPHER: Thank you.

DOROTHY VETRANO: I'm in favor of a cap. Many years ago -

CHAIRMAN SCALI: Of keeping it as it is now?

DOROTHY VETRANO: Yes. Keeping it as it is now. We want a cap. A cap. East Cambridge we had a hard time. Now you're all too young to remember us coming up here. But there were -

CHAIRMAN SCALI: Well the Captain's been around quite awhile. He remembers.

DOROTHY VETRANO: I know. I recognize him. But I don't - I don't know if he was here when a group from East Cambridge came up here. And we were - we really fought to have a cap put on East Cambridge. We had so many barrooms. I can't remember now just how many we had from Inman Square to Lechmere Square. Many, many. And we had all kinds of drunks. And today you don't see them like we used to. But still, this is only encouraging people to drink more. And therefore, I would like to see the cap kept on. Now if you want to take it off in Harvard Square, be my guest. But please -

CHAIRMAN SCALI: I don't think Ms. Nathans is going to be real happy about that comment.

DOROTHY VETRANO: Please, keep it - keep it on in East Cambridge, because I like the way we have our way of life. And I'm - you just heard another case I was not here for on Olive's. You know I'm very leery because here's another place that's going to come in, and the next thing you know, if you're giving our licenses, I'm sure as

shooting they'll come up, because we do have one on every - every corner. We don't want that.

COMMISSIONER BREEN: Well in fact, you know, another reason for the cap was back in the time that Mr. Scali said we initiated this -

DOROTHY VETRANO: Um hum.

COMMISSIONER BREEN: -- the City Council was up in arms, and they had a policy to get some control devices in, because in Harvard Square you probably have 20 policemen patrolling to deter crime and to maintain social order -

DOROTHY VETRANO: Um hum.

COMMISSIONER BREEN: -- because of a certain clientele going into these clubs, these nightclubs. Central Square was the same. To go up to Harvard Square now because of the administrative hearings at this Board because of alleged violations, and the disciplinary action taken by this Board, both positive and negative, we have calmed down this type of clientele. It took many years of patrol officers to patrol and to deter the crime in these locations and to get rid of these people that cause

disturbances.

DOROTHY VETRANO: Um hum.

COMMISSIONER BREEN: But if you were to go through East Cambridge, through Central Square, Harvard Square in the areas of these places, sometimes you think you're on Newbury Street in Boston because it's so quiet. And you don't see as many police officers on patrol there as we did years ago, as you don't see as many police officers on patrol to deter crime in Newbury Street, Boston.

Saying that, we have everything - we're maintaining social order with this cap. So if we were to continue with this cap, I think what we have changed will not change. And everybody will be comfortable going through Harvard Square, visitors, people who live in Cambridge. And they won't fear - they don't fear what they feared back in the '60s when there was all this disturbance going on.

So that was another reason, law and order issue, as well as the many licenses in hotels.

DOROTHY VETRANO: Um hum. Um hum.

COMMISSIONER BREEN: Thank you, Mr. Chair.

CHAIRMAN SCALI: Thank you.

DOROTHY VETRANO: Thank you.

CHAIRMAN SCALI: Nice to see you.

DOROTHY VETRANO: Thank you.

Anybody else wish to come forward? Sir. Just tell us who you are and your address.

CHRISTOPHER ROBINSON: Christopher Robinson -

THE STENOGRAPHER: I didn't hear you, sir.

CHRISTOPHER ROBINSON: Christopher Robinson.

THE STENOGRAPHER: What street?

CHRISTOPHER ROBINSON: 20 Ware.

CHAIRMAN SCALI: Ware Street.

THE STENOGRAPHER: Thank you.

CHRISTOPHER ROBINSON: I'm on the coordinating committee of the Mid-Cambridge Neighborhood Association.

And I don't want to speak for the entire association. We haven't polled our membership of about 600 plus members. But I know that there were a flurry of e-mails in concern about the prospect of removing the cap. And everybody was against any changes.

We're also extremely concerned about the possibility of the pub, Harvard's application for a pub in the basement of their student center. And we feel that this will produce a spillover into the neighborhood. And there really just doesn't seem to be any sensible reason other than, you know, greed for taking off, you know, the cap.

So I - I'm speaking tonight just as an individual, but I know that I'm not alone, and that unfortunately, you know, engagements have prevented other people from coming who - who are also opposed to any change in the cap.

CHAIRMAN SCALI: Thank you very much.

Anybody else want to be heard? Come forward.

UNIDENTIFIED VOICE: Pro, con, or what?

CHAIRMAN SCALI: Both. Both pro and con. Well actually the issue really is should there be a change to the cap policy or should we keep it as is. Those are - those are - that's the question.

EARL HOWARD: Thank you very much, Chairman.

CHAIRMAN SCALI: Hello. Would you just tell us

who you are?

EARL HOWARD: My name is Earl Howard, E-a-r-l H-o-w-a-r-d. I operate -

CHAIRMAN SCALI: Your address?

EARL HOWARD: I'm sorry?

CHAIRMAN SCALI: Your address?

EARL HOWARD: My address is Medfield, Massachusetts. I operate a restaurant in Porter Square. We have six locations at this time, one in Porter Square.

We are in favor of lifting the cap, and obviously for our business and that market. We have gone out and solicited feedback. Mr. Shapiro, who owns Tags, somewhat inspired us that we should pursue this. You know we initially opened that restaurant a year ago in April and -

CHAIRMAN SCALI: Which restaurant -- which restaurant do you have?

EARL HOWARD: Kidoba Mexican Grill.

CHAIRMAN SCALI: Oh, Kidoba.

EARL HOWARD: And, you know, through his inspiration decided to pursue what the opportunities were just for a beer and wine license. It's a very small

percentage of what we - of the business that we do in all - we have three other locations. It's not a big piece, but what we find is, as the Captain referred to before, it doesn't enhance the dining experience. It allows us to be somewhat more competitive. It is a nominal percentage of sales of our business. But it does enhance the - the perception of who we are.

And with all due respect, I think one of the issues here in terms of lifting the cap is that obviously this Commission is going to make an intelligent decision on who licenses are given to to - to prevent situations where they get in the wrong hands. So I think, you know, responsible decisions made as to who get the licenses. And by removing the cap and allowing other people to be competitive in the business is not a bad thing.

CHAIRMAN SCALI: You know I just want to point out a couple of things about the cap as it is now and - and the way it was years ago, just so people understand the differences.

The cap policy put in place in 1986 allows the Commission to keep the number of licenses that were in

place in '86 -

EARL HOWARD: Um hum.

CHAIRMAN SCALI: -- and before. But there's also a clause in there that says that the Commission can override the cap, which we've been doing a number of times over the years, should they meet the conditions, overwhelming neighborhood support, the proof of need, the lack of harm. So there are many situations where we've overridden the cap and - and granted beer and wine licenses and full alcohol licenses to those that can meet that criteria.

The big - the big key to that, too, is I think Mr. Alberts was saying about the value of these licenses, any licenses that were granted after '86 that were given away by the city for free have no value. They are not allowed to be sold. They cannot - people cannot make money off of those licenses. Once you leave, you turn them back in to the Commission. So it retains the value - whatever license you bought before '86 retains its value because of the licenses are not sellable. So that just helps you consider what Kidoba could do.

EARL HOWARD: Right.

CHAIRMAN SCALI: It's a matter of gathering the support that you need from the neighborhood.

EARL HOWARD: We went out and petitioned. And I'd be more than happy to leave this with you. But we've collected over 240 signatures at this point in time in about a 10 day period, 10, 12 day period, of support in favor of a beer and wine license.

CHAIRMAN SCALI: For yourself?

EARL HOWARD: For Kidoba, yes.

CHAIRMAN SCALI: All right. Well then you have to submit it -

EARL HOWARD: I'd be more than happy to leave that with you.

CHAIRMAN SCALI: Well you should save that for your own petition, for your own -

EARL HOWARD: Right.

CHAIRMAN SCALI: -- application should you wish to submit one.

EARL HOWARD: I have copies. Okay.

CHAIRMAN SCALI: Yeah.

EARL HOWARD: Thank you for your time.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain Breen.

COMMISSIONER BREEN: As I said, because of the large disturbances back in the '60s and in the '80s, the City Council was concerned, and they asked the License Board to do something. And as you know, policy and bodies of philosophy interest and thinking of the city. And we instituted this policy. And I guess my question is, is this the first time we've considered a hearing on this?

CHAIRMAN SCALI: Well we've had a number of hearings over the years on this. I think the last was in '98 or '99. We had a big hearing in 1991 on the cap issue. So over the - over the years we've reviewed it. We've adjusted some things. We haven't - we've never eliminated the cap, but it's been adjusted over the years. I think the last hearing was in 1999.

COMMISSIONER BREEN: And was it at the request of the citizens?

CHAIRMAN SCALI: Actually at the request of some City Councilors and a business association.

COMMISSIONER BREEN: Thank you, Mr. Chair.

EARL HOWARD: Thank you very much.

Anybody else wish to come forward? Come forward.
Speak now or forever hold your peace. Ms. Gifford, how are you?

PEBBLE GIFFORD: I'm fine. I'm here with my papers.

CHAIRMAN SCALI: If anyone knows the history of the cap it's Ms. Gifford.

PEBBLE GIFFORD: That's the problem.
Institutional memory.

COMMISSIONER BREEN: You know, Ms. Gifford, I was watching a hearing once and somebody said, oh, sometimes that License Because favors that woman from Harvard Square. And I -

PEBBLE GIFFORD: I don't -

COMMISSIONER BREEN: -- was - I said to myself, I said, we've always been kind and polite to the Madam President and Vice President. But I think you've lost as many as won as many cases before us.

PEBBLE GIFFORD: I know I have.

COMMISSIONER BREEN: And that's what I laughed at. Because you -

PEBBLE GIFFORD: I know.

COMMISSIONER BREEN: -- you didn't win all the time.

PEBBLE GIFFORD: I don't know why I don't quit and just move. I can move to Belmont, the right town.

THE STENOGRAPHER: Would you introduce yourself for the record please?

PEBBLE GIFFORD: Yes, I will. Excuse me. Pebble Gifford, 15 Hilliard Street. And I'm here as vice president of the Harvard Square Defense Fund.

Well you're correct. My institutional memory of this cap is a long one. First of all, let me begin by saying I think it's very unfortunate that the hearing's taking place now, and there really wasn't a lot of notice. And I know the pressure is on you from the City Council to do - to review this matter.

And that is troublesome because we have made many attempts to talk to various City Councilors and give them the history of the cap and tell them why it isn't something

that, you know, is just out of whole cloth and arbitrary and capricious. That there was a history as to how the cap came about. There seems to be very little interest on behalf of the City Councilors to sit down and really try to understand what this issue is all about.

And I'm hoping that you've heard from Cambridge residents who aren't here because of the timing by e-mails and other means, I certainly have -

CHAIRMAN SCALI: Um hum.

PEBBLE GIFFORD: -- as to their support for the cap. I think the City Council sits in a position where they get pressure from business interests. They don't necessarily hear from residents in the affirmative that this is a good thing. They hear from interests that want to get rid of it so they can get another liquor license.

So I - to be honest with you, I think the statements that I've seen in the media that's coming from the City Councilors verge on irresponsibility because they do not know of what they speak.

But that aside, as one of the survivors of the license wars of the '80s, I'd like to just shed some light

quickly on why this policy came about. You know. Maybe some other people don't.

According to a recent article of the time that I read, the City Council revoked or waived the quota system by mistake. That's David Sullivan. Because at the time they thought they were voting to give only two - they were up to quota. They couldn't get any more. And I have a copy of the petition, it was to grant two more licenses to two establishments. Well so they had voted on it. Some of them admit they didn't know what it was.

And lo and behold, the ABCC notifies them and says, well you guys just revoked the quota. You have no limits anymore on liquor licenses. So that was when Pandora's Box opened. And dozens and dozens of licenses were issued in a very short period of time. And the Commission's hands were tied because they had no vehicle to say no.

And that's what led to the situation in the '80s when we had really bad situations in the squares that I'm most familiar with, Harvard Square and Central Square. So much so that, you know, the crime and the drunken brawls at

night and the - I sent out a statement on this fact. But there was assaults. There was vandalism. A month didn't go by that Charlie Sullivan wouldn't call us up and say, my windows have been broken again.

The people in Farwell Place were having people -- beer cans in their back yards all the time. It was not a happy scene. And just as bad or worse in Harvard - in Central Square. And the crime - crime rate in a lot of these areas was very bad.

So this is my submission to you of an article of that time showing a crime analysis. And I'd like to put that in the record.

CHAIRMAN SCALI: These are all the cases that were back then in the '80s. I mean I recollect some of the cases. Of course, I was here -

PEBBLE GIFFORD: Yeah.

CHAIRMAN SCALI: -- back then in the '80s. But -

PEBBLE GIFFORD: Well this is just showing you what it did -

CHAIRMAN SCALI: Right.

PEBBLE GIFFORD: -- when we got - we went from

100 and some odd liquor licenses to 250 in a very short time, which is basically where we are now.

So that being the situation, this is where the Defense Fund came in. We decided we had to do something about it because it was just - Harvard Square was not for us. We weren't focusing on the whole city at the time. We were focusing on Harvard Square. But it was just not an area that was safe, and you couldn't be there after hours or after dark.

And so we worked with the Commission at the time. They very cooperatively held some hearings. We presented a lot of evidence. The police came in and testified as to the crime statistics related to the drinking, statistics related to drinking.

To make a long story short, we ended up with the cap policy, just for Harvard Square was the first one. Jim McDavitt was Chair then. You were here. And that was so popular and it worked so well that other neighborhoods in the city came in and gradually you now have 15 cap areas. Is that correct?

CHAIRMAN SCALI: That's right.

PEBBLE GIFFORD: I don't have to tell you, but maybe there are people in the room, and the Councilors might listen someday and understand that the whole point of this Chapter 138 which governs liquor licenses, the number of liquor licenses should just have to be based - it's based on a mathematical formula based on the number of people living in the city. And the reason for that is that they're issued on the basis of need of the population, not the need of the operator. It's how much liquor doesn't 100,000 people need? And that has all been done by formula for years. But that's what we did away with when we did away with quotas. So the cap has been - been the substitute.

And when the cap went in it just froze the licenses at the time, which were by then 100 over the quota. And I think they're almost double. It's been steady, but still, we're way over what we would have been at quota.

CHAIRMAN SCALI: Um hum.

PEBBLE GIFFORD: And - let me skip ahead here.

CHAIRMAN SCALI: You can condense kind of you

know.

PEBBLE GIFFORD: I will. I will.

CHAIRMAN SCALI: I think we remember the history.

PEBBLE GIFFORD: You remember. I know you do.

CHAIRMAN SCALI: But I -

PEBBLE GIFFORD: I will. I am.

CHAIRMAN SCALI: Maybe the public doesn't remember. We tend to forget after 20 years what - what happened.

PEBBLE GIFFORD: Well that's too many people forget. They think we're crazy when we talk about this cap.

As I said, it froze the number of licenses. It didn't revoke any.

CHAIRMAN SCALI: Right.

PEBBLE GIFFORD: So it was very fair. It wasn't saying you have to give up. So we still were way ahead of the game. And the result is that we were then and still are the wettest city in the Commonwealth. And I checked that with the agency. Per capita we have more licenses. If you really want to drink, this is the place to come.

And if that's the reputation that this city wants to have, you know, drinking capital of Massachusetts, we'll make it known.

And I think if I was - all these efforts are going in now to improve Cambridge's images, to do pedestrian improvements and improve Cambridge, commercial areas. This is totally counterproductive to - to go back to the times when we had unlimited number of licenses.

And I think it's going to make your job impossible, because how are you going to decide with no criteria, no limits, who, what, who's got the worst sob story, who's you know - Paul Overgaard by the way of the Red House, do you have his letter?

ELIZABETH LINT: Yes, we do.

CHAIRMAN SCALI: We've got a number of letters.
Yeah.

PEBBLE GIFFORD: Well I think he lays it out.

CHAIRMAN SCALI: Yeah, we do have his letter.

PEBBLE GIFFORD: Yeah. Well he lays it out better than anybody, the impact on a small independently owned establishment with its liquor license, the impact of

having unlimited licenses and what it will do if - the chains are the ones that are going to be able to get them. The big stores. And the impact it'll have on the smaller licensees.

So this letter I think is well thought out and anybody with a current liquor license should be looking at it. And I feel the same way.

So we - we would rather not see Cambridge become the drinking capital of Massachusetts, which it already is actually. We don't have to let people know that.

The - just - I was curious about Boston. Just to give you an idea, the population in Boston is 590,000. They have for I don't know how many years, 20, 30, 40 years, they've had 654 licenses on the quota. They have one license for every 907 people. We have 100,000 people approximately, and we have one license for every 400. So I think that speaks for itself.

Back at the time - did I mention this - at the time when the cap was introduced, we had the support of the police and the business association. And I talked to Mr. Barron today and he said - he was emphatic and he said he

has written you a letter supporting maintaining the cap.

CHAIRMAN SCALI: Um hum. We do have his letter here. I'm going to go through all the letters -

PEBBLE GIFFORD: Yeah.

CHAIRMAN SCALI: -- once you finish. I'll go through them all.

PEBBLE GIFFORD: Well I mean he - he and I were sort of you know - and the Defense Fund and Central Square Business Association were involved in this in the very beginning. And he was terrific. He saw the handwriting on the wall and felt that the Square, Central Square, had to clean up its act, and the best way to do it was to start limiting - put a - put a cap. Not - put a cap on the licenses.

Now one other thing I'm going to give you for the record because I thought it was so interesting was I talked to the people down at MADD and asked what they could contribute to this dialogue. And this is fascinating, and I want to submit this to the record. This is a study they've done to show the correlation between different types of liquor establishments - they call them alcohol

outlets - and crime.

CHAIRMAN SCALI: Um hum.

PEBBLE GIFFORD: And it's just - it's Cambridge every possible way. Easier access to alcohol leads to increased frequency of drinking. More drinking leads to higher rate of child maltreatment, accidents, assaults, traffic charges, traffic accidents. Reduction of outlets per 1,000 people decrease of probability of severe violence by four percent. It just goes on and on. It talks about college towns. I think this might be something that we could -

CHAIRMAN SCALI: We actually have been in contact with MADD -

PEBBLE GIFFORD: Yeah. They said that.

CHAIRMAN SCALI: -- for a number of years.

PEBBLE GIFFORD: Yeah.

CHAIRMAN SCALI: And they've done a number of different investigations with us. So -

PEBBLE GIFFORD: Yeah.

CHAIRMAN SCALI: -- I really would be -

PEBBLE GIFFORD: No, no. I'm sure -

CHAIRMAN SCALI: Yeah.

PEBBLE GIFFORD: -- you have. But this is simple and it's straightforward. And it says that, you know, the burden should be on the applicant to show that there's a need, not on the -- not on the public to show, you know, that there isn't a need. So --

CHAIRMAN SCALI: We'll be happy to take a -- take a look at that.

PEBBLE GIFFORD: Let me just see if I can find one page. Here is so typical of Cambridge. Part of the reason outlets are allowed to proliferate is that local governments want small -- support small businesses. You know that -- that's the case here. But outlets can do such things as create blight, cause people who live nearby to avoid area and take business elsewhere, make area less attractive to new business, if it's too saturated. I maintain that Cambridge is saturated. We're the wettest city in the Commonwealth that's saturated. So --

CHAIRMAN SCALI: If you could pass it this way.

PEBBLE GIFFORD: Pass that.

CHAIRMAN SCALI: Okay.

PEBBLE GIFFORD: And -

CHAIRMAN SCALI: Thank you very much.

PEBBLE GIFFORD: -- this is another study that MADD has done, and maybe you already have it, but I will pass it along. Do you just need one copy of everything?

CHAIRMAN SCALI: Yeah. We'll - certainly we'll look at it and -

PEBBLE GIFFORD: This is this - I love the way they call it outlet - drinking establishments outlets. But this is more documentation of the connection between alcohol outlet density and crime.

And it's - it didn't use to be this way. This is a new phenomena. It used to have, you know, other factors involved. But now they can absolutely demonstrate in town after town after town that when you get to a certain saturation point, you're going to have trouble. And we have seen that. That's what we saw in the '80s.

And I think only through the work of this Commission over the years and the different leaders have you used the other rules and regulations you have to maintain it. I think the most important one was cleaning

up the bars. That's the bigger offenders, the bars without food. And I think you've done a terrific job on that front.

But there are some violations right now in Harvard Square that I'm going to be bringing - we're going to be bringing to your attention where - and that brings me to my final point, which I think enforcement is - you don't have a lot of manpower to go out and enforce the rules and regulations. And we see that over and over again. People staying open after hours. There's one establishment which we will be filing a complaint against that's currently taking - stops serving food at 9:00 o'clock to switch to dancing. They've taken the menu out of the window. I went in there the other night at 9:30 and couldn't get anything to eat. That is not the rules they're meant to be playing by.

So I think enforcement, if you had an army of people you could send out on any given evening to see that these places are complying with the rules and regulations, it would be a different question.

So I am speaking on behalf of my organization and

our members that we think that the cap has done wonderful things for the city, has made the Square safe to be in after hours and at night. We don't feel that you're going to run around the corner and run into some drunk. And that it's worked. So don't - let's don't throw it out, throw the baby out with the bath water. It's a good good policy and we support it 120 percent. Okay?

CHAIRMAN SCALI: We've got 20 percent more.

PEBBLE GIFFORD: Yeah.

CHAIRMAN SCALI: Thank you, Ms. Gifford, very much.

PEBBLE GIFFORD: 150. Okay. Thank you. And -

COMMISSIONER BREEN: I'd just make one comment -

PEBBLE GIFFORD: Sure.

COMMISSIONER BREEN: -- Mr. -

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: If - as you know, everybody's license tells them when they can serve food, when they can stop, when they can serve liquor, when they can stop.

PEBBLE GIFFORD: Yeah.

COMMISSIONER BREEN: And if they close before the official closing time on the license, they are to immediately notify the License Board. Now if we're closed, they should notify the police. But if you're in any evidence that anybody is in violation of these aforementioned things I just said, then our Executive Officer, Elizabeth Lint, would gladly take action on this if - if you called her.

PEBBLE GIFFORD: No. I will.

COMMISSIONER BREEN: We're not privy to anybody -

PEBBLE GIFFORD: No. I know.

COMMISSIONER BREEN: -- you just mentioned.

PEBBLE GIFFORD: And I think it's because there isn't enough manpower out there on the streets. But this is just, you know, living in the Square, and near the Square, I'm walking around and I see this. And I have not had the time, but I have the forms, and I'm - we're going to be filing a complaint because he's in direct violation of all this.

CHAIRMAN SCALI: We will certainly investigate -

PEBBLE GIFFORD: Okay.

CHAIRMAN SCALI: -- whenever you file.

PEBBLE GIFFORD: Thank you.

CHAIRMAN SCALI: Thank you very much.

Just - just for the record, if anybody else wants to be heard, you can, but we have a number of different letters here, and I won't read them, but I'll just - they're certainly available to anybody who wants to see them.

But there's a letter from the Central Square Business Association voting in favor of keeping the cap as is.

A letter from the Red House, Mr. Overgaag, of the Red House and Charlie's Kitchen in favor of keeping the cap as is.

An e-mail from Pricilla McMillan, 12 Hilliard Street, in favor of keeping the cap as is.

Barbara Broussard, East Cambridge Planning Team, an e-mail to Ms. Lint, in favor of keeping the cap as is.

An e-mail from L.V. Raize of East Cambridge saying to keep the cap as is.

Porter Square Neighborhood Association, Al

Garwin, in favor of keeping the cap as is.

An e-mail from Bill Ives, 10 Hilliard Street, in favor of keeping the cap as is.

An e-mail from Mary Ann Dinoffrio in favor of keeping the cap as is.

An e-mail from Howard Medwed of 58 Washington Avenue in favor of keeping the cap as is.

Ms. Gifford's e-mail, laying out the history, in favor of keeping the cap as is.

An e-mail from Elizabeth Batholet, 10 Farwell Place, in favor of keeping the cap as is.

Ms. Rugo, 31 Fayerweather Street, in favor of keeping the cap.

An e-mail from Ruth and Victor McElney, 113 Huron Avenue, keeping the cap.

An e-mail from Mr. Bracken, Thomas Bracken, keeping the cap as is.

A letter from - an e-mail from Fleet Hill, 22 Longfellow Road, in favor of the cap.

An e-mail from Joe Pickett, 59 Ellery Street, in favor of the cap.

An e-mail from Hans Luzer, 1010 Memorial Drive, again in favor.

An e-mail from Carol Nordlinger of 14 Ash Street in favor of the cap.

A letter from Richard Freedman of the Charles Hotel in favor of the cap as well.

An e-mail from Lucy Murray Brown, again in favor.

And an e-mail from Susan Paine in favor of keeping the cap as is.

Does anybody else want to be heard? Mr. Pitkin and Ms. Nathans.

JOHN PITKIN: John Pitkin, 18 Fayette Street.

Good evening. On my own behalf I'd like to make - register my support for keeping the cap as is. I'm the former president of the Mid-Cambridge (No response)hood Association. I am not speaking for the Neighborhood Association. I want to talk about my own experience, and then I'll say a few words about the Association.

My own experience, I've lived in Mid-Cambridge for 36 years, and I lived through the era of the high crimes in the '70s and the '80s. And although Mid-

Cambridge wasn't part of the effort that fought for the cap, I believe that no neighborhood has benefited as much from the effects of the cap. We are situated between Central Square, Harvard Square, and Inman Square. So you can just do the geography.

And if you look at the crime stats, I think -- I don't think there's any neighborhood that's had a bigger drop in crime since the time that the cap went in. We used to lead the city in burglaries and many kinds of crime. And now we're very much below the average.

And I think -- and I - I - I, personally, believe that the cap had something to do with it. I don't think it's the whole explanation, but I think if you look at the types of crimes we used - we had when I first came to Mid-Cambridge, it was not - every couple of years there was a murder. And they were - they were on the street. They were street crimes. They were near Mass Avenue. And I - I think -- I think we - I think we need to look at that history, and I remember that.

Our Neighborhood Association has not taken a position on this. We work very slowly. We take - we send

- we send - we have 600 members. We send them all notices of our meetings and give them the information on what we're going to do. We have not had time to take up this - this issue.

I would just simply say that if you're going to do something as significant as - as getting rid of the cap, then you give time for organizations that do work on a slower schedule to have input and for our members to be educated about this, because it is a very very important issue for our neighborhood. Thank you.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain Breen.

COMMISSIONER BREEN: One question. Is this an informational hearing for us? Is that what -

CHAIRMAN SCALI: It's really a review of - to give people an opportunity to comment. There's no particular proposal suggested. It's just that we needed to have a review. People suggested that we look at it again, that it may be outdated. And so we can sort of take it under advisement or we can continue it, we can do whatever we wish that's appropriate.

COMMISSIONER BREEN: That would answer Mr. Pitkin's question.

CHAIRMAN SCALI: Yeah. We don't - I mean there's no dire change happening right now. It's a matter of gathering information right now and then deciding what action to take.

COMMISSIONER BREEN: Thank you.

CHAIRMAN SCALI: All right.

Ms. Nathans.

JENNY NATHANS: Jenny Nathans.

I will be very brief. But first I would like to apologize for not being present at the earlier hearing on Filipe's. I was dependent on another for transportation and was therefore late. But I as able to speak to Mrs. Lint this morning, and she knows very well the position of the Defense Fund, and I won't comment any further since I didn't hear what was said at the hearing.

I - I would just like to sum up very very briefly after listening to all of the comments and hearing how many letters and e-mails came in. And I think you probably will get a few more trickling in. I know you love that.

ELIZABETH LINT: We're killing trees.

JENNY NATHANS: You know when we have a hearing to break the cap I think the first criterion that you all ask for is overwhelming public support. Well here is overwhelming public support to keep the cap in - in the same kind of review and hearing. So I hope that you will take that demonstration into consideration.

The - the other thing that I'd like to say, again in terms of breaking the cap, you know, or making an exception to the cap, which - which has been done over the years, and in fact the Defense Fund has endorsed in several cases on a case by case basis, you know, if you don't have a rule, you can't make an exception to it. And to take away the cap kind of makes all bets off, and makes just an open field for anybody to rush in.

Therefore, the position of the Defense Fund in - in that case is - is heartily to keep the rule and to let neighborhood associations make the exceptions where they deem it's appropriate.

I - I spent a certain - I spent a morning having coffee with the president of the Porter Square Neighborhood

Association, who was completely unaware of the history of the cap. And by the time we had finished our conversation her - her take on this was that having - having the cap gave a lot more power to the neighborhoods in terms of the establishments that they would either want to have come in under the cap, or they would support for an exception to the cap.

And again, if we didn't have this structure in place, you wouldn't have that mechanism for neighborhood input. Much - much as the Commission takes in - under consideration neighborhood statements and - of support or disagreement, having - having them be able to come in under this - this umbrella of rules I think makes them all the more powerful, and makes neighbors feel that they have a way to get their comments considered.

So for all of those reasons and the reasons that Mrs. Gifford has stated earlier, and for the history and the successful operation of the cap for these 20 years, the Defense Fund heartily endorses retaining the cap.

Thank you.

CHAIRMAN SCALI: Thanks very much.

Anybody else? Please come forward. Good evening, Mr. DiGiovanni. How are you?

JOHN DIGIOVANNI: Good, thank you.

John DiGiovanni. I'm president of the Harvard Square Business Association. And I will try to be brief here as well.

And I first want to say I think any time a Commission takes on more work they should be commended. And this Commission has taken on more work to consider a review of a policy, which I think is an appropriate policy on your behalf.

And I think it is correct, as you have stated a couple of times, even folks that are - that have promoted the idea of reviewing this have said, even in the record, the idea of just eliminating a cap is not the proposal.

And I'd like to just speak about Harvard Square, but I do think other areas of the Square and other areas of the city have different issues, and those - those - those areas are represented well. So I only want to speak about Harvard Square and not what might be appropriate for Central Square.

And there's just few points that I think get twisted here. And - and a couple of the letters talk about the local versus the chain. And I'd actually ask the Commission to think about any chain in Harvard Square that has a liquor license. Can you name one?

CHAIRMAN SCALI: You're making us think now.

JOHN DIGIOVANNI: I can tell you the one that's had the license actually closed, Chili's, and that closed because consumers weren't going there.

CHAIRMAN SCALI: TGIF, too, right?

JOHN DIGIOVANNI: And I was going to - there's another one. That's a chain. And they left.

CHAIRMAN SCALI: California Pizza Kitchen, too.

JOHN DIGIOVANNI: And they left. So they are a minority of the licenses in Harvard Square, not the majority. And quite frankly, a way to prevent or make it more difficult for a small operator, which we were talking about conundrum, that has to pay a substantial amount of money, that is a symptom of this cap and we understand that. And we think also the idea of just eliminating a cap would then make that person that's made that kind of

investment in a - in another - another hot situation when they've spent a lot of money.

So I would suggest, as we have been saying, and you have in fact talked about, Mr. Chair, is that, in fact, if one was issued you would limit the transferability. And we mention that in our letter from the Harvard Square Business Association. And we want to be sensitive to that fact.

But most significantly, the idea of - a way to start to take a little heat out of this issue and the pricing and the banking, which is also a symptom, is that someone actually could come here, as Café Algiers did, and I think this Commission in its wisdom recognized that as an appropriate location for a beer and wine and the type of operation, that that's something that the Commission ought to consider as an exception.

And when you do that, then you allow the marketplace to realize they don't necessarily have to buy one if they have something and they have an - they have - they have an operation that is welcomed by the community and has, you know, significant support, that it's something

they have a reasonable opportunity to come in to this Commission and ask for that.

And what I would say is I'd like Harvard Square, with all the investment that's been happening, including other departments in the city, to understand. Because it's not simply -- Harvard Square is an international community and it serves a lot of folks. And we're trying to balance all of those things. And that's the toughest part here.

And just as Captain Breen has - has said appropriately, a license is a privilege, it's not a right. And if you have one and you abuse that right -- in the past I think it's been more difficult for this Commission when people paid so much money for licenses, to just pull them. But if in fact it's not exactly that expensive anymore to have a license, I think this Commission would have more ability to do that when someone's out of line.

I can assure you no one in the Business Association wants Harvard Square to be unattractive and to have fights, to have any of this kind of thing. In fact, we - we had to work - someone in our business - in our building that had that kind of thing going on, and we

wanted that rectified. And this Commission helped that. So I think we're all on the same page on that issue.

And I just want to suggest that this Square would like to be able to - be able to consider options. And if there's a space in a building and there are no licenses, and there's a great business that would like to come in here, I'd like there to be an opportunity to be heard and to be considered and it not to be an extraordinary event to have a beer and wine issued or a liquor license.

This Commission has done fine work and I think they can continue to. And we're suggesting a flexible cap policy. I appreciate your time. Thank you.

CHAIRMAN SCALI: Actually I have a couple of questions.

JOHN DIGIOVANNI: Sure. Sure.

CHAIRMAN SCALI: Because I've been thinking about what you mean by, you know, flexible cap policy. Because right now in place is - for a number of years has been a way to override the cap.

JOHN DIGIOVANNI: Sure.

CHAIRMAN SCALI: In the past - particularly the

past two or three years we've overridden the cap a number of times in Harvard Square, which has never been done in the '90s and the '80s, way back when. So I'm wondering whether you feel that that has not been sufficient, and then - and what - what would you suggest be the boundaries of a flexible cap policy?

JOHN DIGIOVANNI: That's a fair question, and it's a difficult question. And I'll, at the risk of mentioning a specific case where I think the extreme where we were going -

CHAIRMAN SCALI: Um hum.

JOHN DIGIOVANNI: -- that the exact number of seats is a recent case.

CHAIRMAN SCALI: Um hum.

JOHN DIGIOVANNI: A great operation in Harvard Square that's been here for five years. It's a local operator, who basically was having - or forced to buy an exorbitant amount of money for seats. I think Daedelus was a perfect example where this Commission says, look, they've been running - this isn't even a guess. They've been running a good operation. This is where we ought not to be

saying, oh, it's the exact number of seats, you can't move beyond that. I think that is an example in one case.

Now I would suggest to you that 1 Brattle Square has a large space. I don't think there's a license large enough for one of those. And we've had history in the Square recently where they're saying entertainment, well run operation, late - later night dining. Those places need to have a license to be able to - to operate. And in cases like that - I don't know anything in the City of Cambridge has unanimous support. But substantial support.

COMMISSIONER BREEN: Would you say that in contrast to the '60s and '80s there's a different sub cultural group that frequent these late clubs? Because there was so much fighting and disturbances and these - these people acting in that manner. You don't see that now.

JOHN DIGIOVANNI: You're absolutely right. And I think an example was a tenant of ours, Captain. It was Picadilly Filly. And that place just poured, okay. It just poured. It didn't even have food at all. And there was a certain element that was rowdy after their drinking,

and they packed the place.

I don't think you have that at House - at the House of Blues. I think people are there for the music, entertainment, some dancing. It was priced probably a little bit more than the Filly might have been.

So I think the answer, Captain, is yes, it's changed substantially.

COMMISSIONER BREEN: Well 20, 30 years ago when I was a Captain in 1975 you couldn't compare Central Square, Mass Ave, and Harvard Square with Boston. And now you go and you see the café seating in Newbury Street. And I drive through Harvard and Central Square and I see the same sub cultural groups there, same type of people. And I feel like I'm in Berkeley Street, Boston. It's just - to me it's been a drastic change in the 20 or 30 years.

JOHN DIGIOVANNI: Captain, I think you're right. And I think part of that also, the laws have changed, right? I mean the drinking age has changed. The amount of - the amount of - amount of education, don't you think?

COMMISSIONER BREEN: I think that this reaction taken by this Board, whether it be positive or negative,

brought these trouble makers and these establishments that condoned this under control, because we issued some good disciplinary punishment against them.

JOHN DIGIOVANNI: Absolutely. Which is why in 2006 you look at setting policy that's relevant to existing conditions. I think that's the point.

CHAIRMAN SCALI: You know you mentioned different projects and that kind of thing in terms of like whether this space or license is available. There are a number of licenses that have come up for sale over the - you know over the years. At one point in Harvard Square there were like four or five licenses for sale. And just recently they've, you know, been selling and being transferred and - for a number of the years nobody was buying anything.

JOHN DIGIOVANNI: Right.

CHAIRMAN SCALI: So I mean are there certain projects that you have in mind? I know that the city has been talking about different projects and different entertainment issues. And all of that of course is -

JOHN DIGIOVANNI: Yeah.

CHAIRMAN SCALI: -- presentable before this

Commission without -

JOHN DIGIOVANNI: Right. And that's really what we're -

CHAIRMAN SCALI: -- changing policy.

JOHN DIGIOVANNI: And I agree with you. The issue is, so it's not seen as an extraordinary event. That it's a consideration. The cap is here. And I think you have conditions on that license that it's not transferable. In our letter we actually say if - if they - if a venture goes in and they get a license and then it fails, they can't turn around now and sell that.

CHAIRMAN SCALI: Um hum.

JOHN DIGIOVANNI: If you have a venture and it's a - it's a small operation, a mom and pop, and something personally may happen to them and they have to move out of the state, and they actually sell that business, ongoing concern, and don't change that, I think that might be reasonable consideration to allow that kind of transfer.

Clearly, this Board is here to - to use their discretion and to judge these case by case. So we don't - I don't have anything I would submit to you, but I thought

- for instance, Algiers is a great example where you're doing what I think was appropriate. I - I would have liked to have seen something else on Daedelus just because I think it was a good case and they were - they are an asset to the Square.

CHAIRMAN SCALI: Thank you very much.

JOHN DIGIOVANNI: Thank you. Thanks for your time.

CHAIRMAN SCALI: Thanks for your comments.

Councilor, come forward. You've waited this long very patiently.

COUNCILOR CRAIG KELLEY: My name is Craig -

THE STENOGRAPHER: Just put that right back where it was.

CHAIRMAN SCALI: She'll be very angry at you.

COUNCILOR CRAIG KELLEY: I should have stayed there.

CHAIRMAN SCALI: She'll be very angry at you.

COUNCILOR CRAIG KELLEY: We need things at the Council chambers like this.

My name is Craig Kelley. I live at 6 St. Gerard

Terrace.

And I just wanted to clarify that there's no decision coming out of this and that there - there will be a much broader set of discussions or public opportunity to speak or to hear from community members and neighborhood groups before something comes back for the Council or not? I wasn't clear on that.

CHAIRMAN SCALI: Well this Commission could do a number of different things. We haven't really decided where we're going with the - with all this. We - we just put this forward to review the policy at the request of a number of Councilors and different people from the public. And so we're gathering information to do that.

Now we're scheduled to vote on Thursday on a number of different matters. This may not be ready for that kind of a vote. I don't think we're ready for that kind of a vote. I don't know that we're voting on anything at this point in time because we don't really have the information that we need to make a change or an amendment.

Do we have the power to do that? Yes, we could, you know, decide on Thursday morning to vote some change if

we need be. But from what I'm hearing people are looking for more time and more information to be brought forward. And so of course we want to give everybody the opportunity to speak and be heard. So -

COUNCILOR CRAIG KELLEY: Well that's what I would urge then, that before you make a final decision we make sure that we've heard from enough people to really understand what their -

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Yes, Captain.

COMMISSIONER BREEN: I'd like to make a motion that - I'm considering this as an informational hearing. And I feel that a transcript should be delivered to the City Council and they'll be informed of what happened here tonight, and they would get a sense of what these neighborhood associations are for, and what the citizens are for, and it will be information for the City Council as well as the License Board. Because if you go back to the '80s, it was their policy to put control points -

CHAIRMAN SCALI: Um hum.

COMMISSIONER BREEN: -- in because of the

violence in the city. And the License Board made the policy to suppress the crime.

So I think this Board -- I would vote - make a motion that we just take it as an informational hearing and have the transcript delivered to the City Council so they'll have the information, because they're a part of this policy, even though it was 20, 30 years ago.

CHAIRMAN SCALI: Um hum.

COMMISSIONER BREEN: And we'll all be at the same level of information.

COUNCILOR CRAIG KELLEY: That's all I wanted to say.

CHAIRMAN SCALI: Thank you, Councilor.

Ms. Jillson.

DENISE JILLSON: Good evening.

CHAIRMAN SCALI: Good evening.

DENISE JILLSON: How are you?

CHAIRMAN SCALI: Very good. How you doing this evening?

DENISE JILLSON: Very well, thank you.

For the record my name is Denise Jillson. I'm

the executive director for the Harvard Square Business Association.

The Association is in full support of an open flexible cap policy for Area 1, which is Harvard Square. We believe and are wholly confident that the Commission has the ability based on years of institutional knowledge to use its discretion to successfully regulate an open flexible cap policy.

This policy would be good for Harvard Square because it allows potential applicants to be heard. These applicants are people who otherwise would not appear before this Commission. The policy allows Harvard Square to grow and to evolve and to have current policies that reflect current conditions. Each request should be considered on its merits, monitored by the appropriate authority, and regulated by existing policies.

The Harvard Square Business Association is in full support that allows for the transfer of a license based on the market. New licenses should not be transferable with one exception, preexisting businesses with no change in ongoing operation, in other words where

the business is being sold, not the license.

As the condition - Commission conducts its thorough review of the current cap policy, it's necessary to acknowledge various shifts in the environment of Harvard Square over the past 20 years. There's been a lot of discussion tonight about what happened in 1976, what happened in 1980, what happened in 1991. But some examples include the types of establishments that serve just alcoholic beverages have significantly changed over the past two decades. And in fact, there are very few places that just pour.

The rules pertaining to the serving of alcoholic beverages to consumers are more strict and more diligently enforced, in large part thanks to this Commission. The fines and the penalty imposed upon the violating - people violating the law are more severe. The training received by law enforcement personnel is more comprehensive than any other time in our history.

The establishment of the Cambridge License Advisory Board and the amount of physical space in the Harvard Square area has substantially increased over the

past 20 years. In other words, the number of new buildings and square footage, both retail, office, and residential, has significantly increased.

The City of Cambridge Economic Development Department has recently completed a comprehensive study of the economic health and the vitality of Harvard Square. Months of public meetings have taken place with neighborhood groups, businesses, and residents, and agenda items included things like Square improvement, the needs of the merchants, residents, students, zoning issues, permitting and licensing, the city's investment in the infrastructure, arts and entertainment, outdoor and late night dining, and signage and way finding maps.

The feedback produced by these meetings included more outdoor and late night dining, increased foot traffic, more arts and entertainment, and specifically, on May 10th, for the Council to review of this liquor license policy. So we've had at least 10 weeks notice for this meeting.

Based on the wishes and the desires of the community, we respectfully request that the Cambridge Licensing Commission approve an open flexible cap policy

that allows for the transfer of a license based on the market, the review and support applications for new licenses in Harvard Square that are viewed by the majority of the community as positive additions to the Square -- and again, this goes back to your discretion - and to support existing license holders in good standing when they apply to increase their seating capacity and/or extend their liquor licenses to outdoor seating.

In short, we are really, you know, trying to work very hard, particularly with the economic development committee. As you know, there's been a \$6.8 million investment in Harvard Square by the city. There has been concern, great concern, by the city over the past several years regarding the decrease in foot traffic, regarding the number of retail spaces that are available for rent, and that the overall press and economic condition of Harvard Square has been questioned.

I can tell you just based on my little experience there at 18 Brattle Street that it's a very exciting place to be. We've seen a lot of foot traffic this summer. I think the addition of the outdoor dining has really led to

a lot of people coming into the Square and just enjoying the Square.

And Captain, as you mentioned, it looks like Newbury Street. Nobody, nobody wants to go back to the way it was in the '70s, the '80s, and maybe even the early '90s. However, we have to go forward. We have to go forward because the city has really made an investment. The Business Association has made an investment.

And I dare say that we have 300 members, two of whom you heard from in written letters, which is less than one-half of one percent. And that the letter that I have here - and I will happily give to all of you this packet of material, which includes by the way all of the summary meetings of the Economic Development Department that go back to October of 2005 - that we're seeing a change. It's slow.

Right now it's gritty, it's noisy, it's really messy in the Square, and it will be for the next 18 months. We need to everything that we possibly can to continue to have a really positive outlook and encourage more traffic, more pedestrians, more art, more entertainment, and more

outdoor dining. And I hope that you'll take that into consideration. Thank you.

CHAIRMAN SCALI: Don't leave yet.

DENISE JILLSON: Okay.

CHAIRMAN SCALI: I still go back to this term, open and flexible.

DENISE JILLSON: Yes.

CHAIRMAN SCALI: I guess I - what is your vision of what that means? Because --

DENISE JILLSON: We outlined it.

CHAIRMAN SCALI: -- the cap policy now -

DENISE JILLSON: Um hum.

CHAIRMAN SCALI: -- allows for that possibility of overriding the cap.

DENISE JILLSON: Um hum.

CHAIRMAN SCALI: Granted, the conditions are, you know, overwhelming neighborhood support, proof of need, lack of harm. The only part that's different about our policies is overwhelming issue.

DENISE JILLSON: Um hum.

CHAIRMAN SCALI: Even if you go look at the - at

the liquor statute under the - under the Mass General Laws it still has to have proof of need, lack of harm. That's just a regular criteria for any -

DENISE JILLSON: Right.

CHAIRMAN SCALI: -- alcohol application. So are you meaning by flexible that we no longer have overwhelming support? I - I guess maybe I should read your letter for -

DENISE JILLSON: Yeah. I think there are three - three very specific issues that we're looking at for a flexible and open cap policy. And you know something, you've done a great job. In my short time here you have used your discretion. And it has been wonderful, particularly around the outdoor dining, particularly around, you know, as was mentioned before Daedelus.

I think what we're looking for is that we need to be assured that people, applicants, will be heard at this Commission, will not be deterred from coming to this Commission to apply for a liquor license, that they will be encouraged to come, and that they know that when they come that - that there will be a possibility. Right now they're not coming.

And, you know, we're - we're seeing, you know, this incredible market condition that was created, you know, almost an artificial market, based on the laws of supply and demand, that people are paying between two hundred and fifty and four hundred thousand dollars. That's not what this is about. That's - it's happened. We know that it's happened. We talked about it here back on I believe the 25th of April, that anywhere between 250,000 and 400,000 was the price that people would pay for a license. That's simply unconscionable.

And what we've done by limiting the number of liquor licenses in Harvard Square is we have created a condition that results in - in those conditions. So that doesn't make sense. And that's not what we're here for. So what we're asking is that when applicants come that they're - they're heard based on their merits. And that we would be the first person in line if somebody were violating the law. I would make the phone call. You know that. Because nobody wants it to go back.

CHAIRMAN SCALI: Yeah. I guess, you know, Cambridge is unique in many many ways. You know that. You

go to any other city and town, by quota, a license is not a license. That's -

DENISE JILLSON: That's right.

CHAIRMAN SCALI: -- the way it works. So -

DENISE JILLSON: Right.

CHAIRMAN SCALI: I - in many ways Cambridge is very flexible. And we do have double the amount of licenses any other city or town would have already.

DENISE JILLSON: Good for us.

CHAIRMAN SCALI: Well I mean, you know, it's worked -

DENISE JILLSON: It has worked.

CHAIRMAN SCALI: -- in many ways and it - and it - in other ways it's been an expensive proposition for some people as well. So -

DENISE JILLSON: It certainly has. And you know something, as was mentioned before, you know, Porter Square and Central Square, you know, we respect their opinions, they're doing the right thing for their own particular community.

But, you know, there was a really interesting

article this past weekend, review of Rendezvous. And as you know, you know Rendezvous did not pay the same amount of money that Conundrum paid for their liquor license. And they're, you know, maybe two miles apart. But, you know, Harvard Square is such a desirable location for people to want to be.

And - and the phone rings off the wall. People who are looking for space. People want to come to the Square. And all I'm asking is that we accommodate them to the best that we possibly can.

Thank you. Can I go now?

CHAIRMAN SCALI: You may. You're off the hot seat.

DENISE JILLSON: Thank you.

Anybody else wish to be heard? Please come forward. Anywhere you'd like to sit. As long as you're right near.

BARBARA BROUSSARD: I'm not touching it though.

Barbara Broussard from the East Cambridge Planning Team.

I'd like to tell you that I grew up in Harvard

Square, that East Cambridge is not it. It's not Central Square and it's not Porter Square yet. They did have a lot of problems. They still have minor altercations with the alcohol consumption.

What most of the neighbors would like to have chimed in is that we retain the cap policy. Yes, there are exceptions. But we would like the people who are applying for a license to be served with food to come before the East Cambridge Planning Team and let the neighbors hear what they're going to do.

Economics should not drive the city, especially for a liquor license. And the price should be the same for everyone. And they definitely do not these licenses transferable. If your business failed, they've lost the license. They shouldn't have the right to sell it or give it to anyone else. Thank you.

CHAIRMAN SCALI: Thank you very much for your comments.

Anybody else wish to be heard? No one else? No more comments? Mr. Crane, you wanted to last, I can tell.

COMMISSIONER BREEN: Mr. Chair, I was going to

say - I was going to mention that a few years back Mr. Rafferty -- Counselor Rafferty and Counselor Crane were on opposite sides of an issue here. And when they left I said to the Chairman it was like the Lincoln-Douglas debate. And Mr. Crane uttered out, I was Lincoln.

Do you recall that, Mr. Crane?

ATTORNEY KEVIN CRANE: Yeah. And Counselor Rafferty said, you got shot in the head.

COMMISSIONER BREEN: Sorry to interrupt you, but that just came to my mind when I looked at both of you.

ATTORNEY KEVIN CRANE: Mr. Chair and members of the Board, my name is Kevin Crane. I'm an attorney. I have an office at 104 Mt. Auburn Street in Harvard Square. And I've been representing clients before this Board now for 24 years. I also reside at 27 Norris Street in Cambridge, and I have lived in North Cambridge for 32 years and 22 years before that in other places within the city.

I am sensitive to the neighborhood concerns, which were the impetus behind the cap policy. I know what it's like to have heard the Lion's Den pour out at 1:00 o'clock in the morning. I know what it sounded like when

the Oxford Grill on Church Street used to close 25 years ago.

So I preface that by those - I'm aware of what the problems that historically did exist here. And I just - as a general inquiry I'd like to - there's been a lot of history stated this evening. And I was curious as to whether anyone knew when it was that the City Council adopted that home rule petition that didn't affect the cap, but it raised the -- it eliminated the quota? Does anyone know?

CHAIRMAN SCALI: You know that was a question that Mrs. Lint and I were trying to figure out this afternoon, and I don't have the document that says that.

PEBBLE GIFFORD: Well it was in 1981 -

CHAIRMAN SCALI: Yeah. I think it was '81.

ATTORNEY KEVIN CRANE: Well I didn't know if anyone would know the answer. I figured Ms. Gifford would probably know. But I just for the record want you to know that in 1981 I happened to be a member of the Cambridge City Council who voted on that particular acceptance. And contrary to what others have said, I knew what I was voting

for.

CHAIRMAN SCALI: Yeah. I didn't get the impression that people didn't know what they - what they were doing. I think maybe it just wasn't stated clearly as to what they were doing.

ATTORNEY KEVIN CRANE: Well I've - I've said my piece on that point.

CHAIRMAN SCALI: Yeah.

ATTORNEY KEVIN CRANE: And - and also, as far as the City Council is concerned, I, for one - and I make this comment because of previous testimony about Councilors making irresponsible statements regarding this particular issue. I give the City Councilors, each one of them and collectively, more credit than that. And from what I have observed from the present Council activity on this particular issue, that they have been responsible. They have asked the Commission, as they should, to address this issue. I don't think there's been any sort of heavy-handed - political heavy-handedness on the part of the Council as far as directing this Commission to decide one way or the other what they want to do with the policy.

And as far as the policy in particular is concerned, I want to thank the Board for holding this hearing because I think that we should review any policy that has been in existence for 20 years. And there are a number of aspects of the policy, which I think the public doesn't quite appreciate. And I think -- I'm going to mention three of them.

The first one, when people say, oh, don't - you know don't touch the cap, I think generally people are concerned about an original issuance of a license or the transfer of a license from one location into a particular location. And that is one aspect of the cap policy. And as I said, I think generally when people say, don't - don't do anything with the cap, that that's the concern or the issue that they're speaking to.

Now there are two other aspects of the policy, which I don't think that you get the same concern about, and I don't think that the general public when they make comments about the cap policy are aware of it.

The first one is the limitation of 1:00 a.m. licenses. And it's part of the cap policy -

CHAIRMAN SCALI: Um hum.

ATTORNEY KEVIN CRANE: -- that - that 1:00 a.m. - that no existing license be extended from - from 1:00 a.m. I think that's a very important part of the policy. I'm going to speak a little bit more in detail about that later.

And the third part, which I - I don't think that the general public is aware of when they're talking about the cap policy is that it applies to an increase in capacity to an existing establishment. The establishment could be there for five years, like my recent client, the Daedelus Restaurant's been, who applied for an increase in capacity. It could be in existence for 20 years.

And I think it's an important distinction to make, because when we're looking at what the policy is addressed toward, which is the ill behavior that we're trying to address, that when you have an existing license that has a track record that our policy might treat that particular licensee different.

Now the Board has recently actually made some changes in some of their regulations. It's not - you don't

have your head in the sand like -

CHAIRMAN SCALI: It's kind of impossible.

ATTORNEY KEVIN CRANE: Well like they - you know I've been interested to see here about, you know, we shouldn't even touch the policy, look at it, and review it. And I almost think of - you know that we've - maybe President Bush, you know, shouldn't change his policies in Iraq. You know the same type of thinking.

But, you know, you've made some changes. I think good ones, too. There was the elimination of the requirement for City Council vote on Harvard Square cap issues. And also the whole sidewalk allowances as far as extension of licensed premises are concerned.

As far as the policy generally, I have always spoken against it. I think as a general matter that the Board is fully capable of hearing any application and deciding on its individual merits, whether it should be approved or not, whether it be because the establishment doesn't have enough experience, whether there's concern about traffic and parking, noise and litter, of a number of establishments in the area.

I think if the - and that is why I've always said that it should be done on a case by case basis. And I think that the Board on some occasions is going to have - would have their back side bit a little bit because of this - because of the policy.

And I've seen over the years where there has been some, in my book, arbitrary application of the policy. And, you know, for example with the Daedelus Restaurant. You know it's - whether the line that was drawn was one side of Arrow Street or the other decides the case. The Charles Square Hotel is - is not within the capped area. And I think that's a bit on the - I think that's an arbitrary part of the policy, but that's just my opinion.

As far as what the policy is trying to address, it's the problem operators, and I think over the years I must commend and echo - I must commend the Board and echo prior speakers that the Board's done a wonderful job as far as increasing the enforcement of the liquor laws. And every licensee client of mine is on red alert as far as the task force inspections are concerned and the disciplines that - that could apply.

And just as far as your question about open and flexible policy, I'll make three suggestions, Mr. Chairman.

The first is on the - on the 1:00 a.m. policy issue. Quite frankly, I think that the Board should look at - I think it should be maintained in the cap policy, first of all. Any extension from a 1:00 to 2:00 should be subject to the cap policy if we're going to have a cap policy.

And the reason for that is, we're trying to get at the ill behavior. And there's a part of me that accepts the old adage about nothing good can happen when you're out after 1:00 o'clock in the morning. You know there's a time to go home and go to bed.

But I realize that there are - to be competitive business wise, you know, you might have to consider extending licenses to 2:00 o'clock, particularly now where you've granted them in a number of occasions now to the 2:00 o'clock. I think it's becoming a competitive disadvantage for the ones that haven't had it.

The second aspect or suggestion I would make on specific policy is on new licenses, that there wouldn't be

any - you keep within the policy the new licenses as for beer and wine. I think a full alcohol license on a new issuance is something that probably should be subject to the cap and subject to the rigorous review that's contained within the cap. Sure, you might get a case that would satisfy the rigorous review. But I think on a new licensee that you should consider allowing them a beer and wine license, you know, subject to your regular review.

And the third part, which really is the one I really think that the Board should seriously consider, and that is that on existing licensees - and sure, I have a client that would benefit by this policy, but I think there are others as well. I do have another client actually who has been a longstanding existing licensee in Harvard Square who would like to increase his capacity. The Board knows the operator and they know what their track record is.

And I think in lots of instances, too, you're going to find that existing licensees are small businesses who employ a lot of young Good evening people, quite frankly. And sometimes we don't hear about the employment issue that's involved. But I do think you'll find that

these smaller businesses will be employing young Cambridge people.

And if they have a good track record, that they shouldn't be subject to the cap policy as far as a request for an increase in capacity. They'd certainly be subject to any regular review of the Board, but I don't think they should be subject to cap issues.

And I think if you - if you - I think the general public would look upon an existing licensee with a good track record much differently than just a new license to someone coming in with no experience and no track record in front of the Board.

Thank you.

COMMISSIONER BREEN: Counsel, that is one of the five conditions that we look to in the policy, past record.

ATTORNEY KEVIN CRANE: Yeah. In any instance you should. That's probably the best indicia of how someone's going to operate.

CHAIRMAN SCALI: Thank you, Mr. Crane.

Second bite at the apple, Ms. Gifford?

PEBBLE GIFFORD: Yes, because it is subtly

chewing away at my argument.

CHAIRMAN SCALI: Let me - let me just ask if anybody else wants to be heard first, so we give everyone the first round.

Anybody else want to be heard? Please come forward now or forever hold your peace, until the next hearing anyways.

(No response)

CHAIRMAN SCALI: All right. Ms. Gifford, do you want to clarify a point or - we don't want to do this battling back and forth, but -

PEBBLE GIFFORD: (Inaudible)

THE STENOGRAPHER: I can't hear you, ma'am.

PEBBLE GIFFORD: No more hearings for another five years, please.

I have a question. Do you feel that you - under this open and flexible policy, which to me is like being sort of half pregnant, and a bit of a slippery slope, do you feel that the people proposing - the proponents of that don't address the issue of need. Do you feel that under an open and flexible policy you just can ignore the Chapter

138 requirement for need?

CHAIRMAN SCALI: That was my original point that, you know, it's the law under the statute anyways, need and lack of harm. That's - and experience by the - by the way -

PEBBLE GIFFORD: But need is a big one -

CHAIRMAN SCALI: Yeah.

PEBBLE GIFFORD: -- and the case law -

CHAIRMAN SCALI: Yeah.

PEBBLE GIFFORD: -- is there has to be need. And I don't hear the lawyers and proponents of this open and flexible policy addressing that.

The elephant in the room is 1 Brattle Square. And I've talked to the owner and I'm sure other people in the room have. He wants a giant restaurant. He doesn't want to have to go on the second floor of Brattle Square. And he doesn't want to pay for a license. He says it doesn't - his numbers don't work. Now is that our concern?

CHAIRMAN SCALI: Well, you know, I can recall over many years, the past 20 years, where there've been a number of projects that have come in to the city. You know

1 Kendall Square -

PEBBLE GIFFORD: Hotels and stuff.

CHAIRMAN SCALI: -- Porter Arcade -

PEBBLE GIFFORD: Um hum.

CHAIRMAN SCALI: -- Porter Exchange. All these different projects have come up maybe as big as or not as big as 1 Brattle Square where a number of things were done to accommodate these different projects. So this is why I - I - you know I -

PEBBLE GIFFORD: But he could pay - this is -

CHAIRMAN SCALI: Well I'm just saying I'm wondering that, you know, some special conditions and different applications can be made in that situation, which we've done in the past.

PEBBLE GIFFORD: Well we've done it for hotels over the years.

CHAIRMAN SCALI: Exactly. Hotels -

PEBBLE GIFFORD: Have these blanket - blanket licenses. But -

CHAIRMAN SCALI: Yeah. I guess I don't know whether that includes -

PEBBLE GIFFORD: But the -

CHAIRMAN SCALI: -- a change in the policy or not. But I mean it certainly - we've been flexible over the years to accommodate projects that need certain -

PEBBLE GIFFORD: Yeah. Obviously.

CHAIRMAN SCALI: -- licenses. Yeah.

PEBBLE GIFFORD: And good for the economic base and the tax base. But the - it seems to me we come back to need and it's very hard to argue in Harvard Square where you have 50 licenses in a 10 block area that there's a need. And I think -- and the - you have to look at that. And it seems to me open and flexible is basically another way of saying let's just do away with the cap. Only for Harvard Square though. I don't - that's my other question. Do you feel you can have one cap policy for Harvard Square and another for Central and another for -

CHAIRMAN SCALI: Well we had a condition for Harvard Square for a number of years which required them to go to the City Council.

PEBBLE GIFFORD: Yes. Well we got rid of that.

CHAIRMAN SCALI: I suppose, you know, anything's

possible, but is it probable? We don't know.

PEBBLE GIFFORD: What's - what's hard here is that you are dealing with two interest groups, and they're very different. One is the residents and one is the business interests. And landlords like the idea of being able to lease to, you know, good restaurants, and they want them to have liquor licenses. But that doesn't - that's an economic argument. It's not the need.

And the cost of licenses is not unique to Cambridge. The cost of licenses in Cambridge are not any worse than Boston or - I don't know how they are in Worcester or Springfield. I doubt they're as high. But they're certainly comparable to what people are paying for licenses in Boston. Thank you.

CHAIRMAN SCALI: Thank you very much.

All right. Seeing no other hands, the Captain's suggestion and motion it was to - this to be an informational hearing, gathering of information. And so we'll take all this information under consideration. We'll talk on Thursday morning as to where this will go. I guess there are a number of Councilors who have also asked

Councilor Kelley to be able to give some input over the next few weeks or months in terms of getting more information to us.

So it doesn't sound like we're ready to make any changes or vote on anything. But we certainly do require and request that anybody who has anymore information to please submit it to us now or in the near future.

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: And then there'll be another hearing I'm assuming.

COMMISSIONER BREEN: Again, going back to 20, 30 years ago, I said that the Council and the License Board implemented this policy. Would it - would it be possible that the stenographer could just give the portion of the meeting pertaining to this to the City Council -

CHAIRMAN SCALI: Sure.

COMMISSIONER BREEN: -- and not the whole -

CHAIRMAN SCALI: I'm sure - I'm sure we can work that out. That's not -

COMMISSIONER BREEN: Thank you.

CHAIRMAN SCALI: That's not a problem at all.

I'm sure the Councilors would love to know the minutes of this particular meeting for informational purposes. All right.

Motion to take the matter under advisement.

COMMISSIONER TURNER: Second.

CHAIRMAN SCALI: Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: All righty. Thank you all very much for your input and you'll be hearing more from us on the next discussion on this.

(Off the record)

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CHAIRMAN SCALI: Hello.

CLAUS DE BANSA: I'm Claus de Bansa (inaudible) -

CHAIRMAN SCALI: Yes. Mr. de Bansa. Well we're still here. Do you want to take - have a seat. Have a seat here.

(Off the record)

CHAIRMAN SCALI: On the record.

COMMISSIONER BREEN: Which one is -

CHAIRMAN SCALI: We're going back to the bottom of page two, Claus de Bansa d/b/a Prince of Arcadia RE, Claus de Bansa, resident manager, applying for a lodging house license with four rooms and six occupants -

ELIZABETH LINT: We're on the record.

CHAIRMAN SCALI: I'm sorry.

-- at 179 Prospect Street.

Mr. de Bansa, you are here now.

CLAUS DE BANSA: Yes, I am.

CHAIRMAN SCALI: You misread the time, is that what it was?

CLAUS DE BANSA: The time, that's what it was.

CHAIRMAN SCALI: All right. Tell us what you

want to do at this particular location?

CLAUS DE BANSA: The city has established that there was a rooming house use in that building before. And so we - we designated the area for the use. But it has not been licensed at the time. It was just a grandfathered use.

CHAIRMAN SCALI: So - I'm sorry. This was a lodging house before?

CLAUS DE BANSA: It was a lodging house before. It was used for - I don't know for how long. It has been long established as such. And there were some zoning issues. So it has been clarified that this should be a lodging house part of the house and then the three other apartments, regular apartments.

CHAIRMAN SCALI: So you've got three apartments -

CLAUS DE BANSA: Yeah.

CHAIRMAN SCALI: -- which are separate from this?

CLAUS DE BANSA: Separate.

CHAIRMAN SCALI: And you have - this is four rooms?

CLAUS DE BANSA: Four rooms.

CHAIRMAN SCALI: And will there be two people in one room, because you have six occupants?

CLAUS DE BANSA: Yeah, because two rooms are large, and sometimes - sometimes I get young couples and - and I don't want to turn them away.

CHAIRMAN SCALI: All right. So are you all renovated? Everything is done there?

CLAUS DE BANSA: We're almost done. We - the installation of the sprinkler system is still underway.

CHAIRMAN SCALI: All right.

CLAUS DE BANSA: And then some other things for the final inspections are still - are still coming in the month of August.

CHAIRMAN SCALI: All right.

COMMISSIONER BREEN: So you have four or more people that want rooms, is that correct?

CHAIRMAN SCALI: Four rooms.

CLAUS DE BANSA: Four rooms. I have no - I have not advertised yet because I'm not finished.

COMMISSIONER BREEN: But you know if you only had three you didn't need a license from us?

CLAUS DE BANSA: That's right. That's right. Yeah. And they share a kitchen and a bathroom. And it's on the second floor in the back of the building. And there are separate entrances. And I have -

COMMISSIONER TURNER: Mr. Chair?

CLAUS DE BANSA: -- a heat sensor system there. I have a highly sophisticated fire alarm system. There's a phone line that goes directly to the Fire Department. I do not know whether under those circumstances it's necessary to have me live there.

CHAIRMAN SCALI: Are you - are you living - are you going to be living there?

CLAUS DE BANSA: Living there. Yeah.

CHAIRMAN SCALI: You're going to be living there?

CLAUS de BANSA: Yeah. Yeah.

CHAIRMAN SCALI: We require a resident manager unless you have some other accommodations for safety issues.

CLAUS DE BANSA: Okay. I wouldn't. So what would the other -

CHAIRMAN SCALI: You have to show us that you

have a 24 hour line where people can call if they have any trouble or problems.

CLAUS DE BANSA: Um hum.

CHAIRMAN SCALI: And that there's a security management that would be able to be contacted should there be an issue.

CLAUS DE BANSA: Um hum. Okay. So they would have - would I need to have a phone line?

CHAIRMAN SCALI: You would have to have something in the front window that says, please call this number. You'd have to notify your - your residents that this is who you contact should there be an emergency.

CLAUS DE BANSA: Okay.

CHAIRMAN SCALI: That kind of thing, if you -

CLAUS DE BANSA: Yeah.

CHAIRMAN SCALI: -- if you are not going to be living there -

CLAUS DE BANSA: Okay.

CHAIRMAN SCALI: -- or someone else that's -

CLAUS DE BANSA: Yeah.

CHAIRMAN SCALI: You could appoint someone as a

resident -

CLAUS DE BANSA: Yeah. Yeah.

CHAIRMAN SCALI: -- manager, too. So -

CLAUS DE BANSA: No. I put - I have another rooming house on Fayette Street and I have a sign there who to contact in case of emergencies.

CHAIRMAN SCALI: But you are going to be living in this one?

CLAUS DE BANSA: Yeah.

CHAIRMAN SCALI: Okay. All right.

Anybody from the public want to be heard on this matter?

(No response)

COMMISSIONER BREEN: Mr. Chair?

CHAIRMAN SCALI: Captain.

COMMISSIONER BREEN: I'll make a motion we grant.

COMMISSIONER TURNER: Mr. Chair, on the motion, I just would like to add to the motion that we grant pending approval of course from Inspectional Services and, you know, his Certificate of Occupancy approval. I know this property has gone under a lot of scrutiny and he is

bringing it into compliance. So there should not be any issues with it.

ELIZABETH LINT: I did speak with Ranjit and he said there were two issues. The sprinkler in the back of the house needs to go in. He does have the permit, but I don't believe the work's been done. And there's a window in the back the size of which needs to be reduced as well.

CLAUS DE BANS: Yeah. This is not in the rooming house part. It's in - but the sprinkler system, we're working on it, and I'm running after the sprinkler company to get it completed.

CHAIRMAN SCALI: All right. So motion to approve subject to the sprinkler system and the - and the window issue resolved with Inspectional Services.

CLAUS DE BANS: Yeah.

COMMISSIONER TURNER: Satisfactory Certificate of Occupancy required.

CHAIRMAN SCALI: All right. I'll amend it to a satisfactory Certificate of Occupancy requirement.

CLAUS DE BANS: Okay. So once I have those I submit them?

CHAIRMAN SCALI: You submit your Certificate of Occupancy to our office and pay your fee. Then you'll get your license at that point.

CLAUS DE BANSA: Okay.

CHAIRMAN SCALI: So I'm assuming that Ranjit is not going to sign off on it until you complete the work.

CLAUS DE BANSA: Of course I have to come back. I understand.

CHAIRMAN SCALI: All right. All righty.

CLAUS DE BANSA: Thank you so much for accommodating me.

CHAIRMAN SCALI: Motion. Moved, seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

CHAIRMAN SCALI: Thank you. Do you have your -
do you have your -

ELIZABETH LINT: Abutter notifications.

CHAIRMAN SCALI: -- abutter notifications? I should have asked you that question in the very beginning.

CLAUS DE BANSA: Yes. Three is in my hand and -

CHAIRMAN SCALI: We need your affidavit, too. Do you have your affidavit that goes with that?

CLAUS DE BANSA: No.

CHAIRMAN SCALI: It's a sheet where you sign that goes with that? There should be an affidavit that goes with that.

CLAUS DE BANSA: Yeah. I didn't - no. I mailed it back, didn't I?

CHAIRMAN SCALI: Well it should be submitted with that.

CLAUS DE BANSA: Oh. No, I don't have - I can -

CHAIRMAN SCALI: Can you find that for us and bring that into our office tomorrow?

CLAUS DE BANSA: Yeah. Then I got something in the mail today that I assume is the fourth person that has not signed.

CHAIRMAN SCALI: All right. Thank you very much.

(Off the record)

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CHAIRMAN SCALI: Sir, are you here on another matter? Are you here for a matter?

JOSEPH BAIN: Yes.

CHAIRMAN SCALI: What are you here for?

ELIZABETH LINT: Are we doing the ratifications?

JOSEPH BAIN: Pardon me?

CHAIRMAN SCALI: What matter are you here for?

JOSEPH BAIN: Well I have to be in - the last couple weeks ago I was meeting for license. And then I missed the -- I have a notice to show up at a meeting today.

CHAIRMAN SCALI: You - where are you from? What are you -

JOSEPH BAIN: (Inaudible) So I got this -

CHAIRMAN SCALI: What was the notice about, do you know?

JOSEPH BAIN: It was about training, about a training.

THE STENOGRAPHER: I'm sorry?

JOSEPH BAIN: I was missing the training.

CHAIRMAN SCALI: Oh, you missed the training?

JOSEPH BAIN: Yes.

CHAIRMAN SCALI: This does not ring a bell with me, Mr. Bain.

COMMISSIONER BREEN: Do you sell liquor?

JOSEPH BAIN: Yeah.

CHAIRMAN SCALI: Parnell Convenience Store.

JOSEPH BAIN: Yeah.

ELIZABETH LINT: Yeah, but we didn't have anything set up with them.

CHAIRMAN SCALI: No. I'm sorry you waited all that time. I don't - I don't know what the letter was about. Do you have the letter with you or -

JOSEPH BAIN: I don't have it with me, but it tell me to be at a meeting today.

CHAIRMAN SCALI: Today. You know if you maybe give a call to Mrs. Lint tomorrow morning and find out what the problem was. I don't - I don't - I'm not exactly sure -

JOSEPH BAIN: Yeah.

CHAIRMAN SCALI: -- what the issue was.

ELIZABETH LINT: You should find your letter

because that will tell you where you were supposed to be.

JOSEPH BAIN: Well I thought (inaudible) -

CHAIRMAN SCALI: No, it's not.

ELIZABETH LINT: No.

CHAIRMAN SCALI: That's why we're concerned for you. It's not on the list.

JOSEPH BAIN: Yeah.

CHAIRMAN SCALI: I hate to see you wait all that time.

JOSEPH BAIN: That's why - that's why (inaudible) automatically come down to this hearing.

CHAIRMAN SCALI: Yeah. I don't - I don't know what it's about. So I don't want you to wait any further if you don't have to.

THE STENOGRAPHER: Are we off the record?

CHAIRMAN SCALI: No, we're on the record. Yeah, we're on the record.

This is Mr. Bain.

THE STENOGRAPHER: Can you spell it?

JOSEPH BAIN: Joseph Bain, B-a-i-n, B, as in boy, a, as in apple, i-n.

THE STENOGRAPHER: Joseph?

JOSEPH BAIN: Bain.

THE STENOGRAPHER: Okay. Thank you.

CHAIRMAN SCALI: All right. Mr. Bain, we'll have to find out tomorrow what the - what the issue was. I'm not really sure.

JOSEPH BAIN: Yeah.

CHAIRMAN SCALI: If you can give Mrs. Lint a call in the morning, would you mind doing that?

JOSEPH BAIN: Okay. I do that.

CHAIRMAN SCALI: This is Mr. Lint.

ELIZABETH LINT: And find - find that letter.

JOSEPH BAIN: I have the letter.

ELIZABETH LINT: Okay.

JOSEPH BAIN: But I didn't bring it with me. I know I'm automatically (inaudible) -

CHAIRMAN SCALI: Well we'll find out for you in the morning, okay?

JOSEPH BAIN: You make me waste all my time.

CHAIRMAN SCALI: I - I apologize. I have no idea what it's about. So -

JOSEPH BAIN: I have to close my business to be here.

ELIZABETH LINT: Well I didn't - I didn't -

JOSEPH BAIN: I don't have nobody.

CHAIRMAN SCALI: Yeah.

ELIZABETH LINT: I didn't send you a letter telling -

COMMISSIONER BREEN: We didn't waste your time.

ELIZABETH LINT: -- you to be here.

CHAIRMAN SCALI: Yeah. I don't -

THE STENOGRAPHER: Excuse me. One person at a time if this is on the record.

JOSEPH BAIN: I have to close my business to come -

COMMISSIONER BREEN: We didn't - we don't know what -

JOSEPH BAIN: Three hours to come down for nothing.

COMMISSIONER BREEN: We didn't do it to you.

ELIZABETH LINT: I didn't send you a letter.

JOSEPH BAIN: You know?

CHAIRMAN SCALI: I wish I knew what it was about.
I don't want you to come if you don't have to, believe me.

JOSEPH BAIN: Yeah.

CHAIRMAN SCALI: But I don't have any idea what
it's about. So I don't want to keep you any longer than
what it is now.

JOSEPH BAIN: Thank you.

CHAIRMAN SCALI: All right. Thank you for coming
in.

(Off the record)

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ELIZABETH LINT: Ratification, Medallion No. 151.
The paperwork's in order.

CHAIRMAN SCALI: Motion to approve. Moved,
seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

(Off the record)

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SUN JOSEY: (Stenographer's note: Ms. Josey has a strong accent.)

Hi. I (inaudible) - okay I come from first the -

CHAIRMAN SCALI: Yes.

SUN JOSEY: Yes. I (inaudible) -

CHAIRMAN SCALI: What were you supposed to be here for?

SUN JOSEY: They - they tell me come, the letter.

CHAIRMAN SCALI: Was it the cap policy?

SUN JOSEY: Hearing.

CHAIRMAN SCALI: Is it the cap policy?

ELIZABETH LINT: I think that's what it is.

CHAIRMAN SCALI: Did you have - did you want to say anything about the letter. Do you know what it was about? I wish I knew what it was about. I'm sorry.

SUN JOSEY: No, no. They say come today at 6:00 o'clock.

CHAIRMAN SCALI: Um hum.

SUN JOSEY: You know here.

CHAIRMAN SCALI: Right.

SUN JOSEY: So I come in here.

CHAIRMAN SCALI: I wish I knew what letter you got. I don't know.

THE STENOGRAPHER: Could I have your name, ma'am?

SUN JOSEY: Sun Josey, S-u-n J-o-s-e-y.

THE STENOGRAPHER: Thank you.

CHAIRMAN SCALI: It's probably the letter with regards to the review of the cap policy, which we just heard, the issue of licenses and caps in the area. Do you remember what the letter said?

SUN JOSEY: The letter say hearing, hearing -

CHAIRMAN SCALI: Um hum.

SUN JOSEY: -- today, times, and the - so I (inaudible) -

CHAIRMAN SCALI: Right.

SUN JOSEY: He say you will (inaudible) -

ELIZABETH LINT: That's what it was.

CHAIRMAN SCALI: The cap.

ELIZABETH LINT: It was about the cap.

CHAIRMAN SCALI: Yeah.

SUN JOSEY: So I mean --

CHAIRMAN SCALI: You didn't have to come to the

hearing unless you had an opinion or you wanted to say something about -

SUN JOSEY: Oh.

CHAIRMAN SCALI: -- the policy.

SUN JOSEY: Oh, you said go. So I - so I come.

So -

CHAIRMAN SCALI: Well thank you for coming anyway. Yeah. There was no need for you to really -

COMMISSIONER BREEN: I'll make a motion, Mrs. Lint, to apologize to that last gentleman.

CHAIRMAN SCALI: Yeah, Mr. Bain and -

COMMISSIONER BREEN: He was right. He was here all night.

ELIZABETH LINT: He said something about he missed a training.

CHAIRMAN SCALI: I don't know. I'm not sure.

ELIZABETH LINT: And that would not -

COMMISSIONER BREEN: Well if it's -

CHAIRMAN SCALI: We'll find out. We'll find out tomorrow for you. But thank you for coming.

SUN JOSEY: Okay. Thank you.

CHAIRMAN SCALI: All right. Thank you very much.

COMMISSIONER BREEN: Thank you.

CHAIRMAN SCALI: Any other matters before the
Commission?

ELIZABETH LINT: No.

CHAIRMAN SCALI: Motion to adjourn. Moved.
Seconded.

All in favor?

COMMISSIONER BREEN: Aye.

COMMISSIONER TURNER: Aye.

(Whereupon, at 9:05 o'clock p.m., the hearing in
the above-entitled matter was adjourned.)

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July 25, 2006/Pg. 210

C E R T I F I C A T E

I, Vanessa Barth, do hereby certify that the foregoing record is a true and accurate transcription of the proceedings in the above-captioned matter to the best of my skill and ability.

Vanessa Barth